

BOARD OF ZONING ADJUSTMENT

Applicant's Statement of Equity Trust Company, Custodian fbo Richard Leavy IRA

212 57th Place¹ (Square 5248, Lot 23).

I. INTRODUCTION AND NATURE OF RELIEF SOUGHT.

This Statement is submitted on behalf of Equity Trust Company, Custodian fbo Richard Leavy IRA (the “**Applicant**”), owner of the property located at 212 57th Place (Square 5248, Lot 23) (the “**Property**”). The Property is currently unimproved and is located in the R-2 zone. The Applicant is proposing to construct a new three-story, semi-detached building (the “**Building**”). The Building will be nonconforming with respect to the side yard and lot occupancy requirements. The northern side yard—proposed at 4 feet—does not meet the minimum 8-foot requirement of D-206.3. The lot occupancy will exceed the 40% limitation by 3.2%. Accordingly, the Applicant is requesting relief pursuant to D-5201 which permits relief from the lot occupancy and yards requirements of the R-2 zone.

II. JURISDICTION OF THE BOARD.

The Board has jurisdiction to grant the special exception relief requested pursuant to Subtitle X § 901, and D § 5201.

III. BACKGROUND.

A. Description of the Subject Property and Surrounding Area.

The Subject Property is located in the R-2 zone district. It is a narrow, interior, rectangular lot measuring 2,000 square feet in land area with 20 feet of lot width. Accordingly, the lot is substandard with respect to lot width and land area for this zone, as the minimum required land area and lot width for a new record lot for a semi-detached building is 3,000 square feet and 30 feet, respectively.

¹ Note that the address has not yet been assigned.

Abutting the Subject Property to the north is a detached single-family home (214 57th Street, NE). Abutting the Subject Property to the south is a detached single-family home. Abutting the Subject Property to the west is a building with the designated use of “residential conversions between 2-4 units.” Abutting the Subject Property to the east is 57th Place, NE. The area is made up of a mix of detached building, semi-detached buildings, and even some row buildings. Some buildings have large side yards, but many have side yards similar to the one proposed, or none at all.

B. Proposed Project.

The Applicant proposes to construct a new three-story building to be used as a single-family dwelling. The Project is conforming with respect to the development standards of the R-2 zone, except for the side yard and lot occupancy requirements, as follows:

Standard	Requirement	Proposal
Height, Stories	40 ft. 3 stories	34 ft., 3 stories
Lot Occupancy	40%	43.2%
Side Yards	One, 8 ft.	4 ft.
Rear Yard	20 ft.	21 ft.
Parking	None required per C-704.2(a)	NA

IV. THE APPLICATION MEETS THE REQUIREMENTS FOR SPECIAL EXCEPTION RELIEF.

A. General Special Exception Requirements of Subtitle X § 901.2.

Pursuant to Subtitle X § 901.2 of the Zoning Regulations, the Board is authorized to grant special exception relief where, in the judgment of the Board, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property, subject also, in this case, to the specific requirements for relief under Subtitle D-5201 Zoning Regulations.

In reviewing applications for a special exception under the Zoning Regulations, the Board's discretion is limited to determining whether the proposed exception satisfies the relevant zoning

requirements. If the prerequisites are satisfied, the Board ordinarily must grant the application. See, e.g., *Nat'l Cathedral Neighborhood Ass'n. v. D.C. Board of Zoning Adjustment*, 753 A.2d 984, 986 (D.C. 2000).

B. General Special Exception Requirements are Satisfied.

The special exception in this case “will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps” and “will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps ...” (11 DCMR Subtitle X § 901.2).

The proposed use, a single-family dwelling is consistent with the permitted use of the R-2 Zone. The area is made up of a mix of building types with varying side yard widths, or no side yards at all. The zone permits semi-detached dwellings as a matter-of-right, and the request for a side yard of 4 feet instead of 8 feet will not adversely affect the use of the neighboring property to the north, as described more fully herein. Also, without the relief, the Applicant would only be able to have a 12-foot-wide building which is not feasible. The relief allows for an additional 4 feet for the building to provide adequate living space. The Zoning Commission recently amended the Zoning Regulations to include relief for a new building on a substandard non-alley record lot to special exception relief (instead of variance relief) to address this type of situation.

C. The Application Meets the Specific Requirements of D-5201.

The Proposal in this Application satisfies the requirements of Subtitle D § 5201 as follows:

Section 5201.1: For an addition to a principal residential building on a non-alley lot or for a new principal residential building on a substandard non-alley record lot as described by Subtitle C § 301.1, the Board of Zoning Adjustment may grant relief from the following development standards of this subtitle as a special exception, subject to the provisions of this section and the general special exception criteria at Subtitle X, Chapter 9:

(a) Lot Occupancy and (b) Yards, including alley centerline setback;

The Applicant requests side yard relief from the requirements of D-206.3 and lot occupancy relief from the requirements of D-304.1.

Section 5201.4 “An application for special exception relief under this section shall demonstrate that the proposed addition, new principal building, or accessory structure shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, specifically:

- (a) The light and air available to the neighboring properties shall not be unduly affected;**
- (b) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;**
- (c) The proposed addition or accessory structure, together with the original building, or the new principal building, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale, and pattern of houses along the street or alley frontage; and**
- (d) In demonstrating compliance with paragraphs (a), (b), and (c) of this subsection, the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the proposed addition or accessory structure to adjacent buildings and views from public ways.**

As provided below, the Applicant can satisfy the considerations outlined in the section. The information below includes the sections that apply to the Property and the Applicant.

5201.4(a) The light and air available to neighboring properties shall not be unduly affected;

The difference between a matter-of-right building (8 ft. side yard, 40%) and the proposed building (4 ft. side yard, 43.2%) will be negligible considering there will still be a significant distance between the building to the north and the proposed Building. Therefore, the light and air available to neighboring properties shall not be unduly affected by the granting of the relief.

(b) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;

The Addition will not have any windows facing the neighboring buildings to the south. The windows proposed on the north will only be 4 feet closer than with a matter-of-right project.

The north-facing windows are still significantly separated by the Property's side yard and the large side yard abutting the building to the north. Therefore, the privacy and use of enjoyment shall not be unduly compromised by the Project.

(c) The proposed addition or accessory structure, together with the original building, or the new principal building, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale, and pattern of houses along the street or alley frontage; and

The area is made up of a mix of detached building, semi-detached buildings, and even some row buildings. Some buildings have large side yards, but many have side yards similar to the one proposed, or none at all. Therefore, the proposed Building, as viewed from alleys, and other public rights of way, shall not substantially visually intrude upon the character, scale, and pattern of buildings along 57th Street.

V. **CONCLUSION.**

For the reasons stated above, this Application meets the requirements for special exception relief by the Board, and the Applicant respectfully requests that the Board grant the requested relief.

Respectfully submitted,

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Date: November 16, 2021

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