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June 28, 2024

District of Columbia  
Office of Zoning  
441 4<sup>th</sup> Street, NW  
Suite 200-5  
Washington, DC 20001

RE: BZA Application – 3309-12<sup>th</sup> Street, SE Washington DC 20032  
Square 5938 / Lot 0842

### Burden of Proof Statement

This statement is submitted on behalf of Sicarii Development, LLC, the applicant and Owner (Owner) of the Property located at 3309-12<sup>th</sup> Street, SE (Square 5938, Lot 0842). This Property is in a R-2 residential zone.



The neighborhood contains semi-detached, single family and multi-family residences. The subject property is a semi-detached two story plus cellar residence and is attached to an adjacent single family residence. The property faces east onto 12<sup>th</sup> Street, SE., and it's exposed south side is on a public alley.

The Owner proposes to build a 10' two story plus cellar addition to the rear of the subject property. The R-2 zone requires a side yard setback of 8'. The property currently has a non-parallel side property line, and is non-compliant with the 8' side yard setback at any point along that property line.



Per 11-DCMR Subtitle D§208.7, in the case of a building with a non-conforming side yard, an extension or addition may be made to the building; provided, that the width of the existing side yard SHALL NOT BE REDUCED or eliminated; and provided further, that the width of the side yard adjacent to the extension or addition SHALL BE A MINIMUM OF FIVE FEET (5 ft.).

The Owner is seeking relief from Subtitle D§208.7 by Special Exception pursuant to Subtitle D § 5201 and Subtitle X § 901. Relief is desired from the side yard setback of 5' minimum, to build the 10' addition at less than the minimum side yard setback at the non-parallel side property line.

Relief from 11-D DCMR § 208,7 may be granted by the Board as a special exception pursuant to 11-D DCMR § 5201.1(b) and subject to the conditions of 11-X § 901.

Board of Zoning Adjustment

District of Columbia

CASE NO.21190

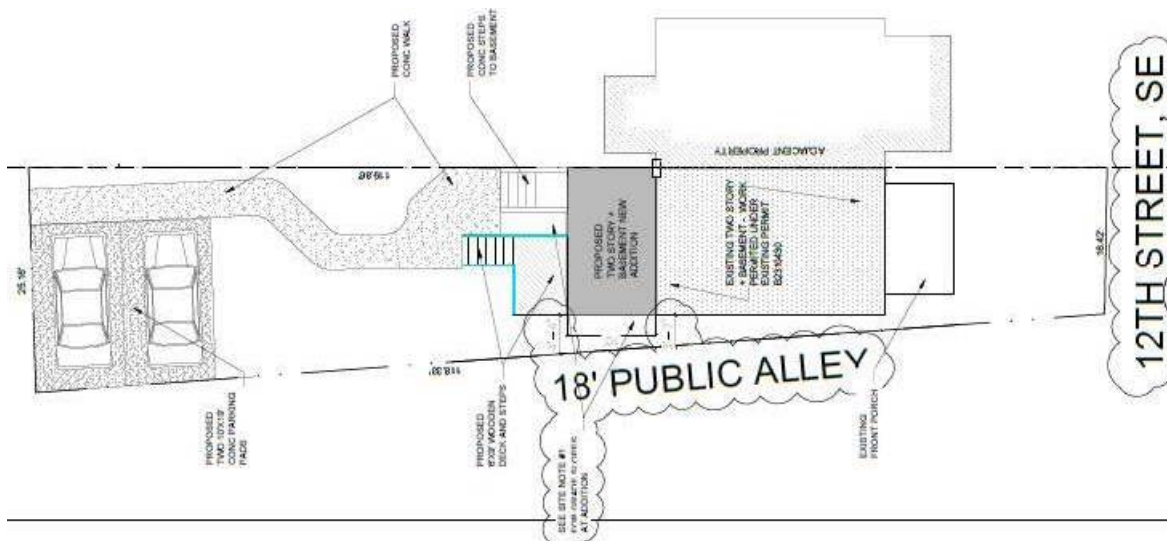
EXHIBIT NO.2

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 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, new building, or accessory structure to adjacent buildings and view from public ways.

The requested exception specific to this application pertains to the required 5' side yard setback, which is not achieved, at the proposed 10' addition to the existing non-conforming structure. The side yard property line is not parallel to the structure and is adjacent to the public alley.

- (a) The new 10' addition at the rear of the existing structure has a side yard setback that varies from a minimum of 3'-7" at the existing structure, to 4'-4" at the rear of the addition. The side yard setback in question is adjacent to an 18' public alley and therefore will not unduly affect the light and air of any neighboring properties.



- (b) The proposed construction will be closer to the property line than required by code, but because that side of the building is open to the 18' public alley, it does not unduly compromise the privacy of use and enjoyment of neighboring properties.
  - (c) The proposed construction does not visually intrude upon the character, scale, and pattern of housing along the alleys of the neighborhood, which has other structures with similar side yards. The new construction and the non-compliant side yard is minimally visual from 12<sup>th</sup> Street.
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DCMR § 901.2, the Board is authorized to grant a special exception where it finds that three conditions exist:

1. Will be in harmony with the general purpose and intent of the Zoning Regulations;
2. Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and
3. Will meet such special conditions as may be specified in this title.

1. The proposed development is consistent with the intent of the R-2 zone which “Provides areas predominantly developed with semi-detached houses on moderately sized lots that also contain some detached dwellings”. The subject property is a semi-detached single-family residence, and it is intended to remain as such.

2. The development will not adversely affect the use of the neighboring properties. The development is similar in size and scale to buildings within the surrounding area and the non-compliant side yard does not adversely affect that. The subject property will remain as a single-family unit and the new addition will not infringe on the use of the neighboring properties.

Based on these conditions, we are requesting approval of our request for Special Exception for a non-compliant side yard.

Thanking you for your consideration.

Respectfully,  
**MWB Architects, PC**

Andrei T. Banks, RA

