

BZA Use Variance Application

Property Location: 5058 Central Ave SE, Washington, DC 20019 (Square 5286, Lot 0837)

BURDEN OF PROOF STATEMENT

Description of the property

The property is a two-story, semi-detached house with a basement on a 3,920 sq. ft. lot in zone R-2. It is similar in exterior appearance to most of houses on the street. The main dwelling unit is a 3 bedroom, 1.5 bath unit with modern appliances and a washer/dryer. The basement is a one bedroom, one bath dwelling unit with modern appliances and a washer/dryer. The property is four blocks from the Benning Road Metro, two blocks from St. Luke's Catholic Church, one block from the Capital View Library, and directly across the street from Guiding Light Baptist Church on Central Ave SE. It has off-street parking for two cars.

Description of the Relief Sought

The owner is seeking use variance relief pursuant to Section U-201.1 to allow for a two-unit flat in a zone that only allows primary dwelling units and accessory apartments as a matter of right.

The Board of Zoning Adjustment has the authority to grant the aforementioned relief pursuant to Section X-1000.1, “[w]here, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the original adoption of the regulations, or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under D.C. Official Code §§ 6-641.01 to 6-651.02 would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, to authorize, upon an appeal relating to the property, a variance from the strict application so as to relieve the difficulties or hardship; provided, that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Exceptional Situation

This property, located at 5058 Central Avenue SE, Washington, DC 20002 (the Property), identified as Square 5286, Lot 0837 in the R-2 zone, was purchased as a single-family home in 2016. The owner acquired this property in February 2016 with the intention of creating hazard resilient, energy efficient, affordable rental housing for residents of Washington, DC.

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As the owner was not and is not a professional developer, she relied on the advice and guidance of industry professionals. The owner worked with architectural firm, Ohi Engineering, to develop the design drawings and obtain a permit. She hired general contractor, Paul Wharton Construction Services, to oversee the renovations and the conversion of the basement to a separately metered (gas and electric) one-bedroom apartment. Inspections were completed by a certified third-party inspector, Clarence Mobley Associates. Architectural plans and elevations were submitted to the Department of Buildings (formerly the Department of Consumer and Regulatory Affairs) and a permit for a two-unit flat (Exhibit A) was approved on April 26, 2017.

Renovations were completed in August 2017, and Mr. Wharton, the general contractor instructed Mr. Mobley, the third-party inspector, to obtain a Certificate of Occupancy (Exhibit B). Later, the owner was informed that a Certificate of Occupancy (C of O) was not required in that zone. The owner proceeded to obtain a business license and rent both units.

In the owner's ongoing efforts to provide affordable and energy efficient housing for her tenants, the owner contracted with Ipsun Solar to install solar panels on the roof of the property. It was during the permitting process for the solar panels that the owner was informed there was an issue related to zoning dating from 2018, and the owner's building permit for a two-unit flat was issued in error. (Exhibit C)

The owner spent a significant sum of money, approximately \$200,000 renovating the property and converting the basement to a one-bedroom apartment based on having received a permit for a two-unit flat. She relied on the professional expertise of an architect, general contractor, Department of Consumer and Regulatory Affairs (now Department of Buildings), and a certified inspector, all of whom led her to believe she was following regulations. It is only now, seven (7) years later, that the owner learned this was not the case. Because flats are not permitted as a matter of right in R-2, the owner has been unable to obtain a certificate of occupancy and she and the tenants living on the property are in a tenuous situation.

Condition of the Property

The property has not been in detriment to the public good, but rather has meaningfully contributed to the public good by providing safe, affordable, and energy efficient housing. The interior of the house was fully gutted in 2017 and new electrical, plumbing and

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mechanical, including energy efficient tankless hot water heaters and mini-split heating and cooling systems were installed. Closed cell spray foam insulation was applied to the exterior walls of the house and all windows were replaced with low U-value windows to reduce heating and cooling costs.

The exterior of the house has not been modified, except for recently installed solar panels on the roof that supplies energy for the main dwelling unit. It maintains the single household appearance and character of similar houses on the street. The building footprint has not changed, and it is not obvious to the public that the basement is separate dwelling unit as all modifications were made to the interior of the house. There is off-street parking to accommodate cars owned by the tenants.

Exceptional Practical Difficulties and Undue Hardship

Denial of relief would pose an undue hardship on the owner. There are no common living areas shared by the two units and to convert the premises to be used as a single-family dwelling would require major construction at a considerable cost and would disrupt or displace the existing tenants. To comply with the requirement of an accessory dwelling unit, the owner would have to displace the tenants so that she could move into the house, which is not an option beneficial to the tenants or the owner. The owner relies on the two rental incomes to pay for and maintain expenses related to the house. Without the rental income from both flats, the owner would not be able to pay for the mortgage, the outstanding renovations costs, or the newly installed solar panels. The owner would have to sell the property, effectively displacing the tenants as well.

The owner respectfully requests the Board of Zoning Adjustments grants the use variance relief.

Kindly,



Cynthia Hartley, Trustee