

DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Applicant's Statement of 71 FLORIDA AVE 39 LLC
4237 Eads Street, NE (Square 5089, Lot 72)

I. INTRODUCTION AND NATURE OF RELIEF SOUGHT.

This Statement is submitted on behalf of 71 Florida Ave 39 LLC (the “**Applicant**”), owner of the property located at 4237 Eads Street, NE (Square 5089, Lot 72) (the “**Property**”). The Property is located in the R-2 zone district and currently improved with a two-story (+ basement) building (the “**Building**”). The Applicant is proposing to use the existing Building for a health care facility treating those who require medical inpatient rehabilitation for various neurological and orthopedic injuries and conditions, as well as long-term issues such as dementia. While this type of use is commonly associated with a Continuing Care Retirement Community, those uses are limited to 60+ years of age per the Zoning Regulations. The proposed uses do not have an age limit—therefore this is not considered a Continuing Care Retirement Community. These uses are licensed under the Health Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983 and are therefore fall under the definition of a “Health Care Facility” per the Zoning Regulations.¹

A health care facility is a matter of right use in the R-2 zone if it is limited to 8 residents. Subtitle U-203.1(j) permits special exception approval for a health care facility between 9 and 300 persons. The proposed use will have 16 beds; accordingly, the Applicant is requesting special exception approval pursuant to U-203.1(j).

II. JURISDICTION OF THE BOARD.

The Board has jurisdiction to grant the special exception relief requested pursuant to Subtitle X-901.2 and U-203.1(j).

III. WITNESSES

The Applicant anticipates that Alexandra Wilson from Sullivan & Barros will lead the presentation and that Mr. Aaron Eyob from the ownership team available for questions.

¹ Defined as: **Health Care Facility**: A facility that meets the definition for and is licensed under the District of Columbia Health Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code §§ 32-44-501 *et seq.*)

IV. BACKGROUND.

A. Description of the Property Location and Surrounding Area.

The Property is located in the R-2 zone district. It is an interior record lot measuring 4,938 square feet in land area. Abutting the Property to the north is Eads Street, NE. Abutting the Property to the south is a public alley. Abutting the Property to the west is a vacant lot. Abutting the Property to the east is a detached single-family dwelling (4239 Eads Street). The area is primarily made up of low-density single-family uses and some institutional uses. The Property is located four-tenths (0.4 mi.) of a mile from the Benning Road Metro Station and near several bus stops. There are also several parks nearby.

B. Proposed Use.

The Applicant is not proposing to modify the existing Building footprint nor increase the size of the existing Building. The Building will be adapted for this use as shown in the plans. The Applicant is proposing care for those needing post-acute care or nursing stay to transition back to their prior level of care or independent living. Most of the patients seeking this care have experienced surgery, a stroke, or some other sort of debilitating setback. Some are expected to make a recovery and return to independent living or their living situation before the incident. Some, like those with dementia, will require longer-term care. The Applicant is proposing 24-hour nursing care and anticipates 2-3 staff members present at one time. Four parking spaces are proposed where only one is required.

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

A. General Special Exception Criteria.

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. The proposed use is residential in nature and is appropriate in this location given the quiet nature of the use which is to promote and facilitate restful recovery and get residents back to independent living, if possible.

B. Requirements of Subtitle U-203.1(j).

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).

The proposed use is defined as a "health care facility" under the Zoning Regulations. When limited to only 8 residents, it is considered a matter-of-right use. The regulations permit up to 300 residents via special exception. The Application meets the requirements of U-203.1(j) as follows:

(1) In R-Use Group A, there shall be no other property containing a health care facility either in the same square or within a radius of one thousand feet (1,000 ft.) from any portion of the property;

The Property is not in R-Use Group A.

(2) In R-Use Groups B and C, there shall be no other property containing a health care facility either in the same square or within a radius of five hundred feet (500 ft.) from any portion of the property;

The Applicant is proposing a similar facility at 4231 Clay Street, which is approximately 450 feet from the subject Property. As noted in (6), the Board may permit more than one health care facility within 500 feet, subject to U-203.1(j)(6).

(3) There shall be adequate, appropriately located, and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility;

The Applicant is providing four parking spaces where only one is required. The occupants are not expected to have cars given the nature of the facility. There will be limited visitors and a limited number of staff members (2-3 staff members) per shift. In addition to the ample parking, there is on-street parking available near the Property. There are several bus stops nearby and the Property is only four-tenths of a mile from the metro.

(4) The proposed facility shall meet all applicable code and licensing requirements;

The proposed facility will meet all applicable code and licensing requirements.

(5) The facility shall not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area; and

The proposed density is still quite limited considering that a health care facility for up to 300 residents is permitted via special exception. And the nature of the use is such that it will be a quiet use with limited visitors.

(6) More than one (1) health care facility in a square or within the distances of (1) and (2) above may be approved only when the Board of Zoning Adjustment finds that the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations;

The Applicant is proposing a similar facility at 4231 Clay Street, which is approximately 450 feet from the subject Property. Given that the two facilities will have adequate parking, limited visitors, are both intentionally quiet uses for the recovery of patients and are relatively small in size (16 beds each) given the special exception permit up to 300 patients, the facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations.

VI. 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,

Alexandra Wilson

Alexandra Wilson
Sullivan & Barros, LLP
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