

**BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA**

**Application of CECILIA PENIZIA
735 IRVING STREET NW
APPLICANT’S PREHEARING STATEMENT**

This Hearing Statement (“Statement”) outlines the existing and proposed use of the property and the manner in which the application (“Application”) complies with the specific tests and burden of proof for the special exception sought in this application before the Board of Zoning Adjustment (BZA)

NATURE OF RELIEF SOUGHT

This is an application pursuant to 11 DCMR Subtitle X, Chapter 9, § 900.2, pursuant to Subtitle E §207.5 for a special exception under Subtitle E, §207.4 to allow the construction of a rear addition which extends beyond ten feet (10 ft.) of the rear wall of the principal building on an adjacent property of a row dwelling, further pursuant to the special exception set forth under Subtitle E, Chapter 52, §5201.1(b), including the conditions set forth under §§ 5201.4 through 5201.7, as applicable

The proposed addition otherwise complies with all other applicable provisions of the Zoning Regulations in the underlying RF-1 zone district

SUMMARY OF APPLICATION

The applicant seeks special exception pursuant to 11 DCMR Subtitle X, § 900.2 in accordance with the standards set forth in X, § 901.2 (a) through (c), pursuant to Subtitle E, Chapter 52, § 5201,1(b) subject to the conditions set forth under §§ 5201.4 through 5201.7, as applicable to construct third-story and rear addition not in compliance with the development standard set forth

under Subtitle E, §207.4, including the conversion of the use from a single-family dwelling into a flat, as that term is defined in the Zoning Regulations.

JURISDICTION OF THE BOARD

The application is properly before the BZA. The Board is authorized to grant the requested special exception under § 8 of the Zoning Act, DC Official Code § 6-641.07 (g) (2) (2001), as further set forth in 11 DCMR, Subtitle X, Chapter 9, § 900.2.

As further set forth under § 901.2, the Board of Zoning Adjustment is authorized to grant special exceptions as provided in this title, where, in the judgment of the Board of Zoning Adjustment, the special exceptions:

- (a). Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;
- (b). Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and
- (c). Will meet such special conditions as may be specified in this title.

As more specifically outlined below in this hearing statement and as will be further attested in the course of the hearing, the applicant contends that the application complies with the three general criteria set forth above, with all the applicable standards prescribed under §5202.1 and the conditions of §§ 5201.4 through 5201.7

PROPERTY LOCATION AND DESCRIPTION

The property address is 735 Irving Street NW and is located in the Park View neighborhood.

The surrounding neighborhood is improved with a mix of low to medium density residential developments comprising one-family row dwellings, some of which have undertaken conversions to two-family dwellings and three-unit row structures. Directly opposite the subject property is a community park

The subject property is located in Square 2891 and is legally described as Lot 0082 and is currently improved with a two-story single-family row dwelling.

The Applicant proposes to construct a rear addition which will extend twenty feet (20 ft.) beyond the rear of an existing principal row dwelling an east of the subject property, not including an unenclosed roofed porch.

The proposed project complies with all other applicable provisions.

STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

1. Compliance with the three standards set forth under X, § 901.2 (a), (b), and (c)

(a). Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;

The Zoning Regulations permits the proposed use of the subject property as a two-family dwellings or flat in the underlying RF-1 zone district within which the subject property is located.

The proposed project complies with the stipulated conditions for the two areas of relief set forth under Subtitle E, Chapter 52, §§ 5201.4 through 5201.7, as further outlined in this statement below.

The proposed maximum percentage of lot occupancy at under fifty-two-two percent (52%) is under the sixty-percent permitted under the underlying RF-1 zone district.

The proposed addition complies with all other development standards applicable to it, save that for which relief is sought in the instant application.

The general purpose and intent of the Zoning Regulations for the RF zone district are set forth in Subtitle E, Chapter 1, §§ 100.1 and 100.4 which stipulate that the RF-1 zones are Residential zones developed primarily with row dwellings within which limited conversions into more than three dwelling units have occurred and are distinguished by a maximum number of dwelling units of two (2), three (3) and four (4) per lot

The subject property along with its proposed third-story and rear addition is being converted for the purpose of use as a two-unit building or flat, as that term is defined and is consistent with the stated purpose set forth in Subtitle E, §§ 100.1 and 100.4 and as further set forth under the Use Provisions of Subtitle U, § 301.1 (b)

For the foregoing reasons, the applicant submits that the proposed project will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps.

***(b). Will not tend to affect adversely, the use of neighboring property in accordance
With the Zoning Regulations and Zoning Maps;***

The subject property is an interior lot amongst a row of two-story row structures and is located in and surrounded by similarly zoned properties.

The property immediately adjacent to the west of the subject property of application has undertaken additions similar to that proposed by the applicant, hence of equal number of stories and depth of building footprint.

The adjoining property and building upon adjacent property which shares a common side property lot line, is the subject of the relief sought in the instant application because the

rear addition is proposed to extend ten (10) additional feet beyond the ten feet (10 ft.) permitted, hence twenty feet (20 ft.)

The Applicant has provided shadow studies which attests to the fact that the shadow impact on the adjoining building is insignificant.

The Applicant also notes that at one hundred and thirty-five feet (135 ft.) of depth of lot, the adjoining building east of subject property can in the future construct additions similar to the proposed in height and depth as a matter of right without need for any relief in the event that the Board of Zoning Adjustment (BZA) approves the instant application.

In light of the foregoing, the applicant contends that the potential shadow impact resulting from the proposed rear addition, which is minimal to insignificant, is temporary and mitigatable with time

The project will provide two off-street parking where none previously existed and will be accessible from an improved public alley. .

The project will comply with all other development standards applicable in the underlying zone district of location.

The building location will not result in adverse effect on the light and air of adjoining property for the stated reasons above..

For the foregoing reasons, the applicant submits that granting the special exception requested will not tend to affect adversely, the use of neighboring properties in accordance with the Zoning Regulations and Zoning Maps.

(c). Will meet such special conditions as may be specified in this title.

The special conditions or criteria for granting the relief sought are set forth under Subtitle E, Chapter 52, §§5201.4 through 5201.7 and the applicant outlines below how the instant

Application complies with the itemized criteria as follows:

Compliance with Conditions for Special Exception from Rear Yard and Percentage of lot Occupancy Provision under Subtitle E, § 5201.1 (b)

5201.4 An application for special exception relief under this section shall demonstrate that the proposed addition, new 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;

The subject property is an interior lot, nestled amongst similar row structures with similar or greater building footprint.

None of the series of adjoining row structures feature an opening on a side wall, and openings are limited to the rear faces of the rows of structures. Hence the light and air of neighboring properties are not unduly affected.

The Applicant notes that the rear addition extends depth equal to the depth of the existing building west of the subject property, as well as in number of stories and height.

The adjacent buildings have no fenestration or opening on side walls, so the light and air of this property is not unduly affected in any way whatsoever. Neither of the two adjoining properties feature roof decks, hence the proposed third floor addition will not affect the light and air available to the adjacent or neighboring properties

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

As aforementioned, the subject property is one of a series of row dwellings sharing common division walls, hence feature no side yards or side openings or fenestration.

The immediately adjoining property east of the subject property is a two-story structure but does not feature a roof deck, hence the proposed third-floor addition will not compromise the use and enjoyment of neighboring properties. The proposed rear addition only openings located in the rear wall has direct site lines the a public alley, and the sight line from the rear decks and balcony which overlooks the yards of adjoining properties are for occasional use and therefore will not unduly compromise the use and enjoyment of neighboring properties

The two areas of openings, which are at the front façade and rear of subject property are separated by a sixty-foot (60 ft.) wide street and a fifteen feet (15 ft) public alley perpendicular to the rear yards of the opposite row dwellings

Further, the proposed third-floor addition does not exceed the number of stories permitted in the underlying RF-1 zone district and it is recessed back from the building front wall to temper an intrusion to the architectural fabric of the existing buildings in the neighborhood

Applicant contends that the proposed alteration to the existing building does not substantially intrude upon the character, scale and patterns of houses along the street and alley frontage. As aforementioned, the proposed third floor addition is recessed back from the building façade or front wall in respect of the character scale and pattern of houses along the street.

(c) 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 views from public ways.

The Applicant has provided graphical representations but stands ready to provide additional graphical representation as necessary or as the BZA may require.

5201.5 The Board of Zoning Adjustment may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent and nearby properties.

Applicant is not averse to any special treatment the Board deems fit

5201.6 This section shall not be used to permit the introduction or expansion of a nonconforming use, lot occupancy beyond what is authorized in this section, height, or number of stories, as a special exception.

The instant application does not propose an expansion of a nonconforming use, lot occupancy beyond the sixty- percent (60%) authorized and the proposed project will comply with height and number of stories limitations in the zone district of location.

5201.7 Where an application requests relief from the alley centerline setback requirements under this section, the Office of Zoning shall refer the application to the following agencies for their review and recommendations, to be filed in the case record within the forty- (40) day period established by Subtitle A § 211:

- District Department of Transportation (DDOT);
- Department of Public Works (DPW);

- Metropolitan Police Department (MPD)
- Fire and Emergency Medical Services Department (FEMS);
- DC Water (WASA); and
- If a historic district or historic landmark is involved, the Historic Preservation Office (HPO)

The provision is inapplicable because the project does not seek relief from the alley centerline provisions.

Conclusion

As set forth under § 901.2, the Board of Zoning Adjustment is authorized to grant special exceptions, as provided in this title, where, in the judgment of the Board of Zoning Adjustment, the special exceptions, to wit:

- (a) Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;
- (b) Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and
- (c) Will meet such special conditions as may be specified in this title.

The Applicant submits that the instant application complies with all conditions for the granting of the requested special exception set forth in Subtitle X, § 901.2 by virtue of the representations set forth under “Statement of Compliance with the Burden of Proof”

The Applicant outlines above how the application for relief complies with the criteria for the granting of the requested relief as set forth under Subtitle E, Chapter 52, §§5201.4 through 5201.7

The proposed project provides two (2) off-street parking spaces notwithstanding that none is required, and none exists, therefore lessening the demand for on-street parking

Applicant respectfully requests for all the foregoing reasons that the Board approve the application for the relief sought.

Witness

- 1. Nneka Shelton**
- 2. Cecilia Penizia Owner**

Respectfully Submitted

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Olutoye Bello