

DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Applicant's Statement of 1124 Morse LLC
932 Shepherd Street, NW (Square 2906, Lot 839)

I. INTRODUCTION.

This Statement is submitted on behalf of 1124 Morse LLC (the “**Applicant**”), owner of the property located at 932 Shepherd Street, NW (Square 2906, Lot 839) (the “**Subject Property**”). The Subject Property, located in the RF-1 zone district, is improved with a two-story, single-family row dwelling (the “**Building**”). The Applicant proposes to construct a third story addition on top of the existing building footprint, and a three-story addition at the rear (“**Rear Addition**”) (collectively, the “**Addition**” or “**Additions**”). As part of the Project, the Applicant also seeks to convert the Building from one unit to three units (the “**Project**”).

The Project and Additions require the following special exceptions:

1. **10 Foot Rule:** The proposed Rear Addition requires relief pursuant to E-207.5 and E-5201 (10-foot rule) as the it will extend 19.5 feet past the only adjoining building to the east.
2. **3-Unit Conversion:** The Applicant is also requesting special exception approval pursuant to U § 320.2 in order to convert the Building to three units.

II. JURISDICTION OF THE BOARD.

The Board has jurisdiction to grant the requested special exception relief requested pursuant to Subtitle X § 901.2, Subtitle U § 320.2, E § 207.5 (pursuant to Subtitle E § 5201).

III. BACKGROUND.

A. Description of the Subject Property and Surrounding Area.

The Subject Property is located in the RF-1 Zone District. It is an interior lot measuring 2,939 square feet. The Subject Property is improved with a two-story, single-family row dwelling. Abutting the Subject Property to the north is Shepherd Street, NW. Abutting the Subject Property to the west is a semi-detached single-family dwelling at 934 Shepherd Street, NW. Abutting the Subject Property to the east is a single-family row dwelling at 930 Shepherd Street, NW. Abutting the Subject Property to the south is a public alley. The area is characterized by a variety of residential and commercial uses, including commercial uses to the east, along Georgia Avenue,

and Roosevelt High School and the Petworth Library to the north. There is also a relatively large park a block and a half north, Petworth Park, on Taylor Street.

The Subject Property is located one-half block from Georgia Avenue where there are a number of commercial uses. The area is well-served by public transportation as there are a number of bus lines surrounding the Subject Property along Georgia Avenue, as well as the Georgia-Ave/Petworth Metro two blocks to the south.

B. Proposed Project.

The Applicant intends to construct a third-story addition and three-story rear addition to the existing two-story Building. The third story addition will bring the height to 34 feet, within the matter-of-right limit, and the rear addition will also conform to the lot occupancy and rear yard requirements of the RF-1 Zone, except for the 10 ft. rule. The Rear Addition also requires relief as it will go nineteen and a half feet (19.5 ft.) past the only adjoining building to the east. As part of the renovation, the Applicant is also proposing to convert the existing single-family dwelling to three dwelling units—1, 3BR unit and two 2BR units.

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

A. Standards for Approval.

i. General Special Exception Criteria

Pursuant to 11-X DCMR § 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 approval as detailed below. 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.

ii. Standard for Approval- Court of Appeals

Approval granted through a special exception is “presumed appropriate, reasonable, and compatible with other uses in the same zone district, provided that the specific regulatory requirements for the requested special exception are met.” *Nat’l Cathedral Neighborhood Ass’n. v. D.C. Board of Zoning Adjustment*, 753 A.2d 984, 986 n.1 (D.C. 2000); BZA Application No. 16826 of City Gate (June 26, 2002). Importantly, “the structure and the purpose of the Zoning

Regulations are such that once the Board has determined that an application satisfied the [specific requirements of the regulations] it follows as a matter of law that the application is consistent with the designed purpose of the special purpose district.” *Wheeler v. D.C. Bd. of Zoning Adjustment*, 395 A.2d 85, 89 (D.C. 1978).

This court has consistently emphasized the narrow scope of the Board's discretion in reviewing special exception applications:

In evaluating requests for special exceptions, the Board is limited to a determination of whether the exception sought meets the requirements of the particular regulation on which the application is based. The applicant has the burden of showing that the proposal complies with the regulations; but once that showing has been made, the Board ordinarily must grant the application. *National Cathedral Neighborhood Ass'n*, 753 A.2d 984, 986 n.1. *See also Stewart*, supra, 305 A.2d at 518 (D.C. 1973) (pointing out that “[s]pecial exceptions, unlike variances, are expressly provided for in the Zoning Regulations”).

In other words, if the specific requirements of the regulation are met, the Board is generally precluded from denying an application for special exception approval. *See National Cathedral Neighborhood Ass'n*, 753 A.2d 984, 986 n.1.

B. Application Satisfied the General Special Exception Requirements of 11-X DCMR § 901.2.

1. Granting of a Special Exception will be in Harmony with the General Purpose and Intent of the Zoning Regulations and Zoning Maps.

The granting of the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps. The Subject Property is located in the RF-1 zone; the RF zones “are distinguished by a maximum number of principal dwelling units per lot of either two (2), three (3), or four (4) units.” (E § 100.4). The Zoning Regulations permit the conversion of a single-family dwelling to three (3) units via special exceptions. The Zoning Regulations also note that the RF zones are “residential zones, which provide for areas developed primarily with row dwellings, but within which there have been limited conversions of dwellings or other buildings into more than two (2) dwelling units. Therefore, the proposed 3-unit conversion and conversion to a row building is in harmony with the general purpose and intent of the RF Zones and Zoning Regulations.

2. Granting of a Special Exception will not tend to affect adversely, the Use of Neighboring Property in accordance with the Zoning Regulations and Zoning Maps.

The granting of the special exception will not tend to affect adversely the use of the neighboring properties as the Addition will go 19.5 feet past the rear wall of the only attached property to the east and the building to the west is not attached. As described more fully below, the granting of the requested relief will also not unduly impact light and air or privacy of the neighboring properties.

C. Specific Special Exception Criteria

1. Relief from the 10-foot rule Requirements Pursuant to E- 5201

The proposal in this Application satisfies the requirements of 11-E DCMR § 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.

The Applicant is proposing an addition to a principal residential building on a non-alley lot. Accordingly, the Applicant is permitted to request this relief pursuant to E-5201.2(b)-(c).

Section 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:

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

The light and air available to the neighboring properties will not be unduly affected by the granting of the requested 10-foot rule relief. The additional 9.5 feet at the rear should not unduly impact the light and air available, as will be further demonstrated by a shadow study.

5201.4(b): The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;

The privacy of use and enjoyment of neighboring properties shall not be unduly compromised by the granting of the relief as the Applicant is not providing any east-facing or west-facing windows, and the relief will not create a new circumstance that would impact privacy.

5201.4(c): The proposed addition or accessory structure, together with the original building, or the new 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 and alley frontage; and

The proposal will maintain the existing façade, the existing porch, and mansard rooftop element on the second floor, thus maintaining the key architectural features of the Building. Additionally, the proposal will have a nearly 50-foot rear yard and will still be under the permitted lot occupancy for the zone. Accordingly, the Addition, together with the original building, as viewed from the street and alley, shall not substantially visually intrude upon the character, scale, and pattern of houses along the street and alley frontage.

(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.

The Applicant has provided plans, photographs, elevations, and section drawings sufficient to represent the relationship between the Project to adjacent buildings and views from public ways.

Section 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.

Section 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 Applicant is not proposing to introduce or expand a nonconforming use, lot occupancy beyond what is authorized in this section, height, or number of stories, as a special exception.

2. Relief from the Conversion Requirements of 11-U DCMR § 320.2.

In order to have three (3) principal dwelling units on the Subject Property, the Applicant must request special exception relief pursuant to U § 320.2. A conversion requires that the existing residential building existed on the lot prior to May 12, 1958. Here, the Building has existed on the

lot since 1913, safely meeting the first requirement. The proposal in this Application also satisfies the requirements of 11 DCMR Subtitle U § 320.2(a) through 320.2(c) as follows:

Section 320.2(a): The building to be converted or expanded is in existence on the property at the time the Department of Consumer and Regulatory Affairs accepts as complete the building permit application for the conversion or expansion;

The building to be expanded is in existence on the property and will be in existence on the property at the time the Department of Buildings accepts as complete the building permit application for the conversion and expansion.

Section 320.2(b) The fourth (4th) dwelling unit and every additional even number dwelling unit thereafter shall be subject to the requirements of Subtitle C, Chapter 10, Inclusionary Zoning, including the set aside requirement set forth at Subtitle C § 1003.6; and

The Applicant is only proposing three (3) dwelling units; therefore, this section does not apply.

Section 320.2(c) There shall be a minimum of nine hundred square feet (900 sq. ft.) of land area per each existing and new dwelling unit.

There is a minimum of nine hundred square feet (900 sq. ft.) of land area per each existing and new dwelling unit. The Applicant is proposing a total of three (3) residential dwelling units, which requires 2,700 square feet of land area. The Subject Property has 2,939 square feet of land area.

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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