

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

**Application of Keyline Homes LLC  
138 Wilmington Place SE  
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 for special exceptions under Subtitle D §206.2, §207., §208.3 and §210.1 to allow the construction of a new one-family dwelling building on an existing vacant lot, being relief from the front yard, rear yard, side yard and maximum permitted percentage of lot occupancy respectively, further pursuant to the special exception set forth under Subtitle D, Chapter 52, §5201.1 (a) and (b), including the conditions set forth under §§ 5201.4 through 5201.6, as applicable

Applicant further requests an area variance from the minimum lot dimensions standards set forth under Subtitle D, 202.1 pursuant to Subtitle X 1002.1 (a)

**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), further pursuant to Subtitle D, Chapter 52, § 5201,1 (a) and (b) subject to the conditions set forth under §§ 5201.4 through 5201.6, as

applicable to construct a new single-family dwelling on an existing vacant substandard Assessment and Tax (A&T) lot or tax lot.

The subject property is located within the R-2 zone district and complies with all other applicable development standards

## **JURISDICTION OF THE BOARD**

The application is properly before the BZA. The Board is authorized to grant special exceptions and variances 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.and Subtitle X Chapter 10, § 1002.1 (a)

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 §5202.1and the conditions of §§ 5201.4 through 5201.

## **PROPERTY LOCATION AND DESCRIPTION**

The property address is 138 Wilmington Place SE, and the subject property is located in the Congress Heights neighborhood.in the SE Quadrant

The surrounding neighborhood is improved with a mix of low to medium density residential developments comprising one-family detached and semi-detached dwellings, and apartment buildings because of the proximity of the RA-1 zone district, within a block or two of subject property.

The subject property is located in Square 6093 and is legally described as Lot 0815. Wilmington Place is a dead-end street comprising a total of nine (9) improved properties, one of which – 136 Wilmington Lot 57 - is a corner lot with two street frontages, one on Horner Place, the other on Wilmington

The subject property is currently unimproved on a lot approximately one thousand, one hundred and thirty-six square feet (1,136 ft<sup>2</sup>) in area.

The proposed project complies with all other applicable provisions, with the exception of the two areas of relief sought in the instant application.

## **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 one-family dwelling as a matter of right in the underlying R-2 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 D, Chapter 52, §§ 5201.4 through 5201.6, as further outlined in this statement below.

Although the R-2 zone district prescribes minimum lot dimensions for single-family detached and semi-detached dwellings in this zone district, applicant seeks relief from one side yard setback requirement due to the narrowness of the subject property or lot and is not inconsistent with the Intent and Purpose provisions set forth under Subtitle D §§ 106.1 (a) (b) and 101.7 in that the applicant does not propose a “denser residential type development”

The proposed building will comply with all other development standards applicable to it in the underlying zone district of location.

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 located in and surrounded by similarly zoned properties, including the RA-1 zone district which permits denser residential developments.

Immediately adjoining properties are on large lots, with detached improvements with buildings removed far for the shared property lot lines, to the effect that their light and

air, including privacy of use, are not compromised in any way, or otherwise cannot be affected by the relief sought in the instant application.

The existing detached one-family dwelling on 136 Wilmington, which is the immediately adjoining lot to the west, which is a corner lot fronting on Horner Place and Wilmington Place, is removed at least twenty-foot (20 ft) from the side wall of the proposed building on subject property, whereas the existing building at 140 Wilmington Place SE east of subject property is removed approximately twenty-nine feet (29 ft.) from the shared property lot line which is the side lot line.

The property of application is perpendicular to the property located on 3740 Horner Place SE and the rear lot line shares a partial part of its side lot line. More importantly, overlooks the rear of that that property and the existing building is removed more than twenty feet from where the two properties share a lot line.

The proposed building location will therefore not result in an adverse effect on the light and air of immediately adjoining properties 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 D, Chapter 52, §§5201.4 through 5201.6 and the applicant outlines below how the instant application complies with the conditions set forth below

**Compliance with Conditions for Special Exception from Yards and Percentage of lot Occupancy Provisions under Subtitle D, § 5201.1 (a), (b), including conditions thereof**

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 similarly zoned district properties and its location to immediately adjoining properties is such that it poses zero threat to the light and air of any of those adjoining properties because of the distance of separation from the existing buildings located immediately adjoining properties.*

*136 Wilmington, which is a corner lot fronting on both Horner Place and Wilmington, is removed a minimum of twenty feet (20 ft.) whereas the adjoining detached building located on 140 Wilmington Place NE east of the subject property is removed a minimum twenty-nine feet (29 ft.)*

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

*The subject property is bounded to the west by 136 Wilmington Place, to the east by 140 Wilmington Place to the north by 3740 Horner Place, the first two of which are separated by approximately twenty feet and twenty nine feet respectively, whereas 3740 Horner Place SE's rear yard located twenty feet (20ft) to the shared property lot line is perpendicular to the rear yard of the subject property*

*Applicant contends that the foregoing juxtapositioned alignment militates against infringement upon the privacy of use of adjoining properties.*

*Further given the narrow width of the subject property of application, the side walls of proposed building on the side lot lines, do not feature any openings or fenestration*

**(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. The façade of the proposed building is brick veneer, whereas the sides and rear are proposed to be clad in vinyl siding.*

*The third floor is recessed at both the front and the rear to lessen the visual impact as viewed from the street and rear of the abutting property to its north*

**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, and since it is new construction would not be expanding on any nonconformity of lot occupancy height and number of stories limitations in the zone district of location.*

#### **STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF (AREA VARIANCE)**

The Applicant, by preponderance of the materials submitted with this Application, facts to be presented during the public hearing and further evidence to be submitted twenty-one days prior to the hearing date, will prove compliance with the three-prong test necessary for the granting of the area variance sought, as outlined below.

The Board is authorized to grant an area variance where a property demonstrates three characteristic elements:

1. The subject property must demonstrate a unique physical characteristic of shape or size, exceptional narrowness or shallowness which existed as of the time of the original adoption of the Zoning Regulations, or that there exists exceptional topographical conditions or other extraordinary or exceptional situation or condition of property;

2. That the physical characteristic(s), or extraordinary or exceptional situation or condition of the property makes the strict application of the Zoning Regulations result in peculiar and exceptional practical difficulties to the owner of the property;
  
3. That the Board is able to grant the variance without substantial detriment to the public good and without substantial impairment of the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

**UNIQUE PHYSICAL CHARACTERISTIC OF SHAPE OR SIZE**

The subject property fulfills this burden by virtue of its narrow lot width of sixteen feet (16 ft.), depth of seventy-one feet of lot depth, for a total 1,136 square feet of lot area in zone district requiring thirty feet (30 ft.) and three thousand square feet (3,000 ft<sup>2</sup>) minimum lot dimensions

The Subject Property is uniquely the narrowest and smallest lot in its Square of location, in the R-2 zone district which requires a minimum thirty-foot (30 ft.), upon which a semi-detached structure can be constructed.

The applicant contends that the application complies with this first prong test for the foregoing reason

**PECULIAR AND PRACTICAL DIFFICULTIES TO OWNER OF PROPERTY**

The physical shape and size of the subject property result in and imposes upon the owner peculiar and practical difficulties if the strict development standards are applied.

Compliance with the required side yard setback would result in an eight feet wide building. The applicant contends that all the relief sought in this application are directly related to the narrowness and tiny size of the subject property

**SUBSTANTIAL DETRIMENT TO PUBLIC GOOD AND SUBSTANTIAL IMPAIRMENT OF INTENT, PURPOSE AND INTEGRITY OF THE ZONE PLAN**

The applicant seeks to construct a new single-family dwelling on a substandard tax lot in a district zone which permits the proposed use.

The proposed project is intended to result in a development which will not be incompatible with the scale and character of the neighborhood.

**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 D, Chapter 52, §§5201.4 through 5201.6

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

**Witness**

- 1. Olusegun Okengbenro. Owner**