

# Burden of Proof Special Exception Application

## 912 5<sup>th</sup> Street NE

**To:**           **The Office of Zoning**  
Government of the District of Columbia  
Suite 210 South  
441 4<sup>th</sup> Street, NW  
Washington DC 20001

**From:**       **Jennifer Fowler**  
Agent/Applicant  
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Washington, DC 20003

**Date:**         April 10, 2026

**Subject:**     **BZA Application, Cooper Addition**  
912 5<sup>th</sup> Street NE (Square 0807, Lot 0042)

Andrew Cooper, owner and occupant of 912 5<sup>th</sup> Street NE, hereby applies for special exceptions pursuant to 11 DCMR Subtitle X, Chapter 9, to build a three-story addition on the rear of an existing single family row dwelling in the RF-1 zone. The zoning relief requested is as follows:

*Application of Andrew Cooper, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle E § 5201 from the lot occupancy requirements of Subtitle E § 210.1 and the rear yard requirements of Subtitle E § 205.4, to build a three-story addition on the rear of an existing semi-detached principal dwelling unit in the RF-1 Zone at premises 912 5th Street NE (Square 0807, Lot 0042). Additional relief is requested for the penthouse requirements of Subtitle C § 1501.1(c) to build a penthouse on the roof of the proposed addition. Relief is also requested from Subtitle U § 301.1(b) & 301.1(e) to convert the property to a multi-family unit with two units in the main house and one unit in the garage.*

### I. Summary:

This special exception qualifies under ZR-16 Subtitle D, Chapter 5201 and Subtitle X, Chapter 9, because the lot occupancy does not exceed 70%, and the addition will not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property.

The existing one-story rear addition will be removed and rebuilt as a three-story + cellar rear addition. The proposed addition will extend as far back as the existing rear addition and will extend to the property line on both sides. The addition will align with the neighbor at 914 5<sup>th</sup> Street and extend approximately 11'-1" past the rear wall at 904 5<sup>th</sup> Street NE.

The proposed addition will expand the cellar and second floor level and create a third floor level with a penthouse and roof deck. It will be the same size as the existing rear addition on the first level. The existing lot occupancy will remain the same at 1133 SF (70%).

Additionally, the property will be converted to a multi-family unit with one unit in the garage and two units in the basement house.

## II. Qualification of Special Exception

### 5201 Special Exception Review Standards

By satisfying the requirements of E-5201.1, E-5201.4 through E-5201.6, the application also meets the general special exception requirements of X-901.2.

*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;*

#### **904 5<sup>th</sup> Street NE & Neighbors to the South**

904 5<sup>th</sup> Street NE is an apartment building that lies south of the proposed addition at 912 5<sup>th</sup> Street. The proposed addition will extend approximately 11'-1" beyond the existing rear wall at 904 5<sup>th</sup> Street, the same distance as the existing one-story rear addition. The apartment building at 904 is setback from the property line approximately 6'-7", so the proposed addition at 912 5<sup>th</sup> will be set back from the apartment building. The proposed addition at 912 5<sup>th</sup> will have a minor impact on the light and air available to 904 5<sup>th</sup> Street and neighbors to the south due to the size. However, the impact will be limited to the rear and side yards at 904 5<sup>th</sup> Street and the rear yards for the neighbors to the south. Therefore, the proposed addition at 912 5<sup>th</sup> Street will have a minimal impact on the existing building at 904 5<sup>th</sup> Street NE and the neighbors to the south.

#### **914 5<sup>th</sup> Street NE**

914 5<sup>th</sup> Street NE lies north of the proposed addition at 912 5<sup>th</sup> Street. The proposed addition will not extend beyond the existing rear wall at 914 5<sup>th</sup> Street. Because the proposed addition will be on the south side and extend to the property line, the light and air available to 914 5<sup>th</sup> Street will be impacted somewhat. However, the impact will be limited to the rear yard at 914 5<sup>th</sup> Street, and will have a minimal impact on the existing house at 914 5<sup>th</sup> Street NE.

#### **Neighbors to the East**

Neighbors to the east of 912 5<sup>th</sup> Street are separated from the property by a 15' wide public alley. Additionally, the existing garage at 912 5<sup>th</sup>, privacy fences, and the rear yard further separates the proposed addition from the neighbors to the east. The proposed addition at 912 5<sup>th</sup> Street will be 52'-7" from the rear property line and will extend as far back as the existing one-story rear addition. Due to the separation between the proposed addition and the neighbors to the east, no shadows will be cast.

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

#### **904 5<sup>th</sup> Street NE & Neighbors to the South**

904 5<sup>th</sup> Street NE lies to the south of the proposed addition at 912 5<sup>th</sup> Street NE. The wall along the shared property line will be solid with no windows and the existing privacy fence will remain. The proposed rear wall will have windows and doors, which will allow some limited views into the rear yards of the neighbors to the south, but not the main houses. Therefore, the proposed addition at 912 5<sup>th</sup> Street will not compromise the privacy of 904 5<sup>th</sup> Street or the neighbors to the south.

#### **914 5<sup>th</sup> Street NE**

914 5<sup>th</sup> Street NE lies to the north of the proposed addition at 912 5<sup>th</sup> Street NE. The wall along the shared property line will be solid with no windows and the existing privacy fence will

remain. The proposed rear wall will have windows and doors, which will allow some limited views into the rear yard at 914 5<sup>th</sup> Street, but not the main house. Therefore, the proposed addition at 912 5<sup>th</sup> Street will not compromise the privacy of 914 5<sup>th</sup> Street.

### **Neighbors to the East**

The proposed addition at 912 5<sup>th</sup> Street is separated from the neighbors to the east by the existing garage, rear yard, privacy fences, and a 15' wide public alley. Therefore, the proposed addition at 912 5<sup>th</sup> Street NE will not unduly impact the privacy of use and enjoyment of the neighbors to the east.

*c.) The proposed addition or accessory structure, together with the original building, or the proposed 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 existing square is extremely dense with existing garages, backyards, privacy fences, and a 10-15' wide public alley. The proposed addition will be similar in massing to the other houses on the block. Additionally, the proposed addition will be constructed with high quality materials and will be appropriate in scale for its surroundings.

*(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, new building, or accessory structure to adjacent buildings and views from public ways*

Plans, photographs, and elevational drawings have been submitted into the record.

### **320.2 Special Exception Review Standards**

*320.2 Conversion of an existing residential building existing prior to May 12, 1958, to an apartment house to an apartment house shall be permitted as a special exception in an RF-1, RF-2, or RF-3 zone if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the following conditions:*

*(a) The maximum height of the residential building and any additions thereto shall not exceed thirty-five feet (35 ft.), except that the Board of Zoning Adjustment may grant a special exception from this limit to a maximum height of forty feet (40 ft.) provided the additional five feet (5 ft.) is consistent with Subtitle U §§ 320.2(f) through 320.2(i);*

The proposed building height is 35'. A penthouse is proposed and relief from Subtitle C § 1501.1(c) is requested under this application.

*(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;*

This is not applicable, as the proposed conversion is for three dwelling units.

*(c) There must be an existing residential building on the property at the time of filing an application for a building permit;*

There is an existing row dwelling on the property.

*(d) There shall be a minimum of nine hundred square feet (900 sq. ft.) of land area per dwelling unit;*

The proposed three units are each only allocated 540 SF.

*(e) An addition shall not extend further than ten feet (10 ft.) past the furthest rear wall of any principal residential building on an adjacent property;*

Relief is being requested for the rear yard requirements of Subtitle E § 205.4

*(e) Any addition, including a roof structure or penthouse, shall not block or impede the functioning of a chimney or other external vent compliant with any District of Columbia municipal code on an adjacent property. A chimney or other external vent must be existing and operative at the date of the building permit application for the addition;*

There are no impacted chimneys on the adjacent property.

*(g) Any addition, including a roof structure or penthouse, shall not significantly interfere with the operation of an existing solar energy system of at least 2kW on an adjacent property unless agreed to by the owner of the adjacent solar energy system. For the purposes of this paragraph the following quoted phrases shall have the associated meaning:*

*(1) "Significantly interfere" shall mean an impact caused solely by the addition that decreases the energy produced by the adjacent solar energy system by more than five percent (5%) on an annual basis, as demonstrated by a comparative solar shading study acceptable to the Zoning Administrator; and*

*(2) "Existing solar energy system" shall mean a solar energy system that is, at the time the application for the building permit for the adjacent addition is officially accepted as complete by the Department of Consumer and Regulatory Affairs or an application for zoning relief or approval for the adjacent addition is officially accepted as complete by the Office of Zoning, either:*

*(A) Legally permitted, installed, and operating; or*

*(B) Authorized by an issued permit; provided that the permitted solar energy system is operative within six (6) months after the issuance of the solar energy system permit not including grid interconnection delays caused solely by a utility company connecting to the solar energy system;*

Neither adjacent property has solar panels.

*(h) A roof top architectural element original to the house such as cornices, porch roofs, a turret, tower, or dormers shall not be removed or significantly altered, including shifting its location, changing its shape or increasing its height, elevation, or size. For interior lots, not including through lots, the roof top architectural elements shall not include identified roof top architectural elements facing the structure's rear lot line. For all other lots, the roof top architectural elements shall include identified rooftop architectural elements on all sides of the structure;*

No rooftop architectural elements will be impacted, as the third floor is set back from the front mansard.

*(i) Any addition shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:*

*(1) The light and air available to neighboring properties shall not be unduly affected;*

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

*(3) The conversion and any associated additions, 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 subject street or alley;*

This has been fully addressed under the 5201 Special Exception Standards above.

*(j) In demonstrating compliance with Subtitle U § 320.2(i) the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the conversion and any associated addition to adjacent buildings and views from public ways;*

Architectural plans have been submitted into the record.

*(k) 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 or nearby properties, or to maintain the general character of a block;*

*(l) The Board of Zoning Adjustment may modify or waive not more than three (3) of the requirements specified in Subtitle U §§ 320.2(e) through § 320.2(h) provided, that any modification or waiver granted pursuant to this section shall not be in conflict with Subtitle U § 320.2(i); and*

*(m) An apartment house in an RF-1, RF-2 or RF-3 zone, converted from a residential building prior to June 26, 2015, or converted pursuant to Subtitle A §§ 301.9, 301.10, or 301.11 shall be considered a conforming use and structure, but shall not be permitted to expand either structurally or through increasing the number of units, unless approved by the Board of Zoning Adjustment pursuant to Subtitle X, Chapter 9, and this section.*

## **901 Special Exception Review Standards**

Subtitle X 901.2 The Board of Zoning Adjustment is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2), to grant special exceptions, as provided in this title, where, in the judgement 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;*

As described more fully above, the addition will be in harmony with the intent of the Zoning Regulations due to the fact that the massing, materials, and details will mimic existing structures on the alley.

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

As described more fully above, the addition will minimally impact the light and air or privacy of the neighboring properties.

- c. *Will meet such special conditions as may be specified in this title.*

## 902 Application Requirements

*An application for a special exception shall meet the requirements of Subtitle Y § 300.*

Along with this application, we have included the following items:


a) Photos of the existing house and surroundings.

Plan and elevation drawings of proposed addition, including a site plan showing the relationship of the proposed addition to adjacent buildings.

b) Official Plat from the DC Office of the Surveyor.

If you require any further clarification or have any questions regarding the application, we are available at any time to discuss them with you.

Thank you,



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Jennifer Fowler  
Agent/Architect