

BOARD OF ZONING ADJUSTMENT
SPECIAL EXCEPTION APPLICATION

Applicant's Statement of Grand Realty LLC

1117 Morse Street, NE (Square 4070, Lot 136)

I. INTRODUCTION AND NATURE OF APPROVAL SOUGHT.

This Statement is submitted on behalf of Grand Realty LLC (the "Applicant"), owner of the property located at 1117 Morse Street, NE (Square 4070, Lot 136) (the "Subject Property"). The Subject Property is improved with a two-story, single-family principal dwelling unit (the "Principal Building"). The Applicant is proposing to construct a third-story addition on top of the existing Building and a three-story, six-foot nine-inch (6 ft. 9 in.) addition at the rear of the Building (the "Addition") and add one (1) residential unit in the Principal Building. The Applicant is also proposing to construct a new, two-story accessory structure (the "Accessory Building") at the rear of the Subject Property and use the Accessory Building as a third principal dwelling unit, for a total of three (3) dwelling units on the Subject Property (the "Project").

The Project will require the following areas of approval:

1. Special Exception Approval Pursuant to U § 320.2.

The Applicant is proposing three principal dwelling units: two in the Principal Building and one in the Accessory Building. Accordingly, the Applicant is requesting special exception approval pursuant to U § 320.2.

2. Special Exception Approval Pursuant to U § 301.1(e) from the requirements of U § 301.1(c)(1).

Subtitle U § 301.1(c) permits, as a matter-of-right, a principal dwelling unit within an accessory building, subject to certain conditions. One of those conditions is that "the accessory building was in existence on January 1, 2013" (U § 301.1(c)(1)). Subtitle U § 301.1(e) states that

“An accessory building constructed as a matter-of-right after January 1, 2013, and that is located within a required setback shall not be used as, or converted to, a dwelling unit for a period of five (5) years after the approval of the building permit for the accessory building, unless approved as a special exception.” Accordingly, the Applicant is requesting special exception approval pursuant to U § 301.1(e) which evaluates the Addition under the general special exception requirements of Subtitle X.

3. Special Exception Approval Pursuant to E § 5201 (Accessory Building Footprint).

Pursuant to E § 5003.1, an accessory structure is limited to a maximum footprint of 450 square feet. The proposed footprint of the Accessory Building is 558.59 square feet. Accordingly, the Applicant is requesting special exception approval pursuant to E § 5201 (as permitted via E § 5007.1).

II. JURISDICTION OF THE BOARD.

The Board has jurisdiction to grant the special exception approval requested pursuant to Subtitle U § 320.2; pursuant to U § 301.1(e) from the requirements of U § 301.1(c)(1); and pursuant to E § 5201 from the accessory building footprint requirements of E § 5003.1.

III. BACKGROUND.

A. Description of the Subject Property and Surrounding Area.

The Subject Property is located at 1117 Morse Street, NE and is in the RF-1 zone district. Abutting the Subject Property to the east and west are other one-family row dwellings. Abutting the Subject Property to the north and south are Morse Street and a public alley, respectively. The area is characterized by a variety of residential uses, including one-family dwellings and flats. There are also a number of apartment buildings located to the south of the Subject Property, directly across the public alley.

B. Proposed Project.

The Applicant is proposing to construct a third-story addition on top of the existing Building and a three-story, six-foot nine-inch (6 ft. 9 in.) addition (at the rear of the Building the "Addition") and convert the Principal Building to two units. The Applicant is also proposing to construct an accessory structure (the "Accessory Building") at the rear of the Subject Property and use the Accessory Building as a third principal dwelling unit, for a total of three (3) dwelling units on the Subject Property (the "Project").

The Addition to the Principal Building only extends six feet and nine inches (6 ft. 9 in.) beyond the adjacent properties' rear walls. The third story Addition will be setback six feet (6 ft.) from the front façade of the Building. The Accessory Building footprint is 558.59 square feet and is not located in the required rear yard. The proposed Project includes two (2) parking spaces located on a parking pad at the rear of the Subject Property, between the Accessory Building and rear lot line.

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

A. Overview.

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, subject also, in this case, to the specific requirements for relief under Subtitle U § 320.2 and E § 5201 of the Zoning Regulations.

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).

B. Relief pursuant to U § 301.1(e); Requirements of Subtitle X § 901.2.

The Applicant is requesting approval pursuant to U § 301.1(e) in order to permit a principal dwelling unit in the new Accessory Building. In order to obtain this relief, an Applicant must meet the general special exception requirements of X § 901.2. The granting of a special exception in this case “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 in accordance with the Zoning Regulations and Zoning Maps ...” (11 DCMR Subtitle X § 901.2).

1. Addition will be in Harmony with the General Purpose and Intent of the Zoning Regulations and Zoning Maps.

The Addition 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 three (3) units and the use of a new accessory building as a principal dwelling unit via special exceptions. Therefore, the proposed use was contemplated by the Zoning Commission and enumerated in the 2016 Zoning Regulations. Accordingly, the proposed Addition will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps.

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

As described more fully below, the Addition will not impact the light and air or privacy of the neighboring properties. The Addition will also not adversely affect the use of neighboring properties as residential properties. The Project was designed to limit these impacts on

neighbors. Instead of proposing a large addition on the Principal Building in order to accommodate three units, the Applicant is proposing to locate the third principal dwelling unit at the rear of the Subject Property in a separate Accessory Building. Three principal dwelling units are permitted via special exception and the physical addition to the Principal Building is permitted as a matter-of-right. The Accessory Building will be separated from the adjacent principal structures by some distance. The Applicant is only proposing one more dwelling unit than would be permitted as a matter-of-right which is unlikely to create additional noise or privacy issues. Accordingly, the Accessory Building and proposed principal dwelling unit is unlikely not affect the use of neighboring properties.

The layout of the Project has additional features which improve the quality of the project and the mitigation of typical concerns in conversion cases. In particular, the open walkway along the side of the accessory building provides direct access to the rear of the Property from the Principal Building. This improves the situation both for parking and trash collection. The occupant of a unit in the Principal Building will have access to trash cans at the rear of the Property, and the access to parking makes it more likely that the spaces would be used, rather than parking on the front street. In addition, the layout provides for separately accessed private yard space for the units, providing outdoor recreation space to multiple units.

C. Requirements of Subtitle U § 320.2.

In order to have three (3) principal dwelling units on the Subject Property, the Applicant must request special exception approval pursuant to U § 320.2. The proposal in this Application satisfies the requirements of 11 DCMR Subtitle U § 320.2(a) through 320.2(l) as follows:

Section 320.2(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 Applicant is proposing to increase the height of the Principal Building from twenty-seven feet (27 ft.) to thirty-four feet and nine inches (34 ft. 9 in.).

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;*

The proposed Addition will increase the number of units from one (1) unit to three (3) units. Therefore, Inclusionary Zoning and the set aside requirements of Subtitle C § 1003.6 do not apply.

Section 320.2(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 residential structure on the Subject Property at the time of filing an application for a building permit.

Section 320.2(d) *There shall be a minimum of nine hundred square feet (900 sq. ft.) of land area per dwelling unit;*

The proposed structure includes three (3) units, requiring a minimum of 2,700 square feet of land. The Subject Property has 2,795 square feet of land, therefore satisfying the minimum requirement.

Section 320.2(e) *An addition shall not extend further than ten feet (10 ft.) past the furthest rear wall of any principal residential building on the adjacent property;*

The Applicant is not proposing to extend the Addition further than ten feet (10 ft.) past the furthest rear walls of any principal residential buildings on the adjacent properties. The proposed Addition to the Principal Building will only extend six feet and nine inches (6 ft. 9 in.) past the existing Building's rear wall and the rear walls of the adjacent buildings (which are currently in-line with the existing Building's rear wall).

Section 320.2(f) *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;*

The Addition, including roof structures and penthouses, will not block or impede the function of a chimney or other external vent on the adjacent properties.

Section 320.2(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;*

The Addition will not interfere with the operation of an existing or permitted solar energy system on any adjacent property.

Section 320.2(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;*

The third story Addition will be set back six feet (6 ft.) from the front façade. The Applicant is proposing to remove a metal awning covering the porch and replace it with a new porch roof and porch area. While the awning and porch are likely not original to the house, out of an abundance of caution, the Applicant is requesting a waiver from this subsection. The existing porch is enclosed and has a sloped metal awning. The new porch will more closely match the existing porches on Morse Street which are not enclosed and have flat roofs.

Section 320.2(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;

The light and air available to neighboring properties will not be unduly affected. The proposed Addition will only extend six feet and nine inches (6 ft. 9 in.) past the rear walls of the buildings to the east and west. The three-story rear Addition is permitted as a matter-of-right and, as the shadow studies will demonstrate, any shadow created by the Addition will not rise to an undue impact on the light and air available to neighboring properties.

The new Accessory Building is situated towards the rear of the Subject Property and should not have an undue impact on light and air available to the neighboring properties. The Accessory Building is limited to two stories and eighteen feet and six inches (18 ft. 6 in.). While the Applicant is requesting relief for the footprint of the Accessory Building, the height and number of stories is permitted as a matter-of-right. The difference in shadow created by a matter-of-right Accessory Building and the proposed Accessory Building is unlikely to rise to the level of "undue" and will be cast towards the rear of the adjacent properties.

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

The privacy of use and enjoyment of neighboring properties shall not be unduly compromised. Neither the proposed Addition nor the new Accessory Building will have any windows facing east and west.

(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;

The conversion and any associated Addition, and the new Accessory Building, as viewed from the street, shall not substantially visually intrude upon the character, scale, and pattern of houses along the subject street. The Addition is set back six feet (6 ft.) from the front façade. The Applicant is proposing to remove a metal awning covering the porch and replace it with a new porch roof and porch area. While the awning and porch are likely not original to the house, out of

an abundance of caution, the Applicant is requesting a waiver from this subsection. The existing porch is enclosed and has a sloped metal awning. The new porch will more closely match the existing porches on Morse Street which are not enclosed and have flat roofs.

The houses on this block have some variety; while there are a number of two-story structures, there are also some mid-block third-story additions and two, large three-story, multi-unit buildings with 50+ foot rear additions at the end of this block of Morse Street. As past cases on this block have indicated, large rear additions have not been positively received by the community. Accordingly, the Applicant is proposing a modest three-story and third-story addition at the rear of the existing Building and a two-story Accessory Structure. The proposal breaks up the bulk and density and maintains the character of the Principal Building.

The new Accessory Structure will not substantially visually intrude upon the character, scale, and pattern of houses along the alley. The Accessory Structure is setback approximately twenty feet (20 ft.) from the alley so that when viewed from the alley it does not stand out or intrude upon the existing scale. There is an existing fence on the adjacent property to the east and an existing accessory structure at the rear of the property to the west. Considering the setback of the Accessory Building, the adjacent fence, and the adjacent accessory structure, the Accessory Building will not substantially visually intrude upon the character, scale, and pattern of houses along the alley.

Section 320.2(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;*

The Applicant has submitted plans showing the relationship of the proposed Addition to the neighboring properties and the public ways.

Section 320.2(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;*

No special treatment is necessary because the Addition will maintain ample open space, will be a size and scale appropriate for the site, and will have a design consistent with the neighborhood.

Section 320.2(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)."*

The Applicant is requesting a waiver from U § 320.2(h). Even though the awning is likely not original to the Principal Building, the Applicant is requesting the waiver out of an abundance of caution. As discussed above, the proposed Project and waiver are not in conflict with U § 320.2(i).

D. Requirements of 11-E DCMR § 5201.

The Accessory Building is limited to 450 square feet in lot area as a matter-of-right. The Applicant is seeking relief to provide a lot area of 558.9 square feet. The proposal in this Application satisfies the requirements of 11-E DCMR § 5201, as follows:

Section 5201.3 **"An Application for special exception under this section shall demonstrate that the addition or accessory structure shall not have a substantially adverse affect on the use of enjoyment of any abutting or adjacent dwelling or property, in particular:**

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

The Accessory Building will not unduly affect the light and air available to the neighboring properties. The new Accessory Building is situated towards the rear of the Subject Property and should not have an undue impact on light and air available to the neighboring properties. The Accessory Building is limited to two stories and is less than twenty feet (20 ft.) in

height. While the Applicant is requesting relief for the footprint of the Accessory Building, the height and number of stories is permitted as a matter-of-right. The difference in shadow created by a matter-of-right Accessory building and the proposed Accessory Building is unlikely to rise to the level of "undue" and will be cast towards the rear of the adjacent properties.

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

The privacy of use and enjoyment of any neighboring properties will not be unduly compromised by the proposed Accessory Building. The Accessory Building will be located towards the rear of the Subject Property and there will be a significant distance between the Accessory Building and adjacent buildings.

(c)The addition or accessory structure, together with the original 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 subject street frontage; and

The Accessory Building will not visually intrude upon the character, scale, or pattern of the accessory structures on the alley. The new Accessory Building will not substantially visually intrude upon the character, scale, and pattern of houses along the alley. The Accessory Building is setback approximately twenty feet (20 ft.) from the alley so that when viewed from the alley it does not stand out or intrude upon the existing scale. There is an existing fence on the adjacent property to the east and an existing accessory structure at the rear of the property to the west. Considering the setback of the Accessory Building, the adjacent fence, and the adjacent accessory structure, the Accessory Building will not substantially visually intrude upon the character, scale, and pattern of houses along the alley.

(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; and

The Applicant has provided plans, photographs, elevations and section drawings sufficient to represent the relationship of the proposed Accessory Building to the adjacent buildings and views from public ways.

(e) The Board of Zoning Adjustment may approve lot occupancy of all new and existing structures on the lot up to a maximum of seventy percent (70%).

The lot occupancy of all new and existing structures will have a total lot occupancy of fifty-eight-point sixty two percent (58.62%).

Section 5201.4 “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.”

The Applicant will comply with Board directives for protection of adjacent and nearby properties.

Section 5201.5 “This section may not be used to permit the introduction or expansion of a nonconforming use as a special exception.”

The Applicant is not requesting to introduce or expand a nonconforming use.

Section 5201.5 “This section may not be used to permit the introduction or expansion of nonconforming height or number of stories as a special exception.”

The Applicant is not requesting to introduce or expand nonconforming height or number of stories.

IV. CONCLUSION.

For the reasons stated above, this application meets the requirements for special exception approval by the Board, and the Applicant respectfully requests that the Board grant the requested approval.

Applicant's Statement
1117 Morse Street, NE

Respectfully submitted,

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