

BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

Application of Vanessa Simmons, Trustee

3938 17th Street NE – Square 4152, Lot 30

APPLICANT’S PRELIMINARY STATEMENT OF BURDEN OF PROOF

This Preliminary Statement of Burden of Proof (“Statement”) sets forth, as to the subject property as currently platted and identified as Square 4152, Lot 30, 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 before the Board of Zoning Adjustment (“BZA” or “Board”).

NATURE OF RELIEF SOUGHT

This is an application pursuant to 11 DCMR Subtitle X, Chapter 9, § 900.2 for a special exception under Subtitle D, §§ 5004.1 and 5004.2 to allow the construction of an accessory structure or building for use as an exercise studio within the required rear yard setback of an existing single-family detached dwelling located on Square 4152, Lot 30, further pursuant to the special exception set forth under Subtitle D, Chapter 52, § 5201.2(b), including the conditions set forth under §§ 5201.3 through 5201.6, as applicable.

The proposed accessory structure or building otherwise complies with all other applicable provisions of the Zoning Regulations in the underlying R-1-B zone district within which the subject property is located.

SUMMARY OF APPLICATION

The applicant seeks a special exception pursuant to 11 DCMR Subtitle X, § 900.2, in accordance with the standards set forth in Subtitle X, § 901.2(a) through (c), and pursuant to Subtitle D,

Chapter 52, § 5201.2(b), subject to the conditions set forth under §§ 5201.3 through 5201.6, as applicable, to locate the accessory exercise studio within the required rear yard setback of Lot 30.

The subject property is proposed to remain a single-family dwelling, use permitted as a matter of right in the underlying R-1-B zone district within which it is located.

The applicant proposes constructing the accessory structure on an existing concrete pad on Lot 30.

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, D.C. 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, the special exception:

- (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 and as will be further attested at the hearing, the applicant contends that the Application, as it relates solely to Lot 30, complies with the three general criteria set forth above, together with the applicable standards prescribed under § 5201.3 and the conditions of §§ 5201.4 through 5201.6.

PROPERTY LOCATION AND DESCRIPTION

The property address is 3938 17th Street NE, located in the Brookland neighborhood of Northeast Washington, D.C. The property is located within the R-1-B zone district, a district predominantly reserved for single-family dwellings.

The surrounding neighborhood is improved with predominantly single-family detached dwellings; accordingly, the use of the subject property is not inconsistent with prevailing building types and is consistent with the applicable Purpose and Intent Provisions for the R-1-B zone district set forth under Subtitle D, §§ 101.1 through 101.5.

The subject property is located in Square 4152 and is currently and controllingly identified as Lot 30. This Statement is presented on the basis of that current, single record lot.

The subject property is a corner lot located at the intersection of 17th Street NE and Randolph Street NE. The property abuts a sixteen-foot (16 ft.) improved public alley at its rear.

The proposed project complies with all other applicable provisions of the Zoning Regulations, with the exception of the relief sought in the instant Application.

STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

1. Compliance with the Three Standards Set Forth Under Subtitle 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 permit the continued use of the subject property, Lot 30, as a one-family detached dwelling in the underlying R-1-B zone district, as set forth in Subtitle D, § 101.5 and Subtitle U, § 201.1(a)(1), respectively.

The proposed project complies with the stipulated conditions for the area of relief set forth under Subtitle D, Chapter 52, §§ 5201.3 through 5201.6, as further outlined below.

The proposal is limited to the construction of an unobtrusive, one-story accessory exercise studio structure less than ten feet (10 ft.) in height within the required rear yard setback of Lot 30.

Lot 30 complies with and exceeds the minimum lot area requirement of five thousand square feet (5,000 sq. ft.) prescribed for the underlying zone district, as do most of the adjoining lots within the square.

Several of the adjoining lots feature accessory structures not intended for human habitation.

The applicant is filing for relief out of an abundance of caution, because, when Subtitle D, §§ 5004.1 and 5004.2 are read in tandem, § 5004.1 permits an accessory building other than a shed to be located within “a rear yard,” subject to the setbacks enumerated therein, while § 5004.2 separately and specifically authorizes only a shed to be located within a “required” rear yard. The applicant accordingly seeks special exception relief out of an abundance of caution to locate the proposed accessory exercise studio — the sole structure for which relief is sought in this Application — within the required rear yard setback.

This reading is reinforced by Zoning Administrator Interpretation No. 28 (Feb. 2, 2022), which, in construing the parallel accessory-building provisions of Subtitle E (Chapter 50) applicable to RF zones, confirms that the rear-yard siting provisions and the shed-specific exception operate as distinct, independently applicable standards. While Interpretation No. 28 addresses RF zones, its

reasoning is instructive by analogy to the substantively identical structure of Subtitle D, §§ 5004.1 and 5004.2 applicable to the subject R-1-B property.

The proposed accessory exercise studio complies with all other general provisions and development standards set forth under Subtitle D, §§ 5000.1 through 5000.5.

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.

Lot 30 is located within, and surrounded by, similarly zoned properties. Immediately adjoining properties are detached structures on medium-sized lots.

The proposal is unobtrusive in scale: a one-story structure of approximately three hundred sixty square feet (360 sq. ft.) to be located within the required rear yard setback of Lot 30.

The exercise studio is not intended for human habitation and is strategically sited away from the only adjoining property, on the portion of Lot 30 facing Randolph Street.

Across from the side of the subject property is an institutional use situated on a large parcel of land.

The project complies with all other development standards applicable in the underlying zone district of location, save for the relief sought herein.

For the reasons stated, the location of the accessory building on Lot 30 will not result in adverse effects on the light and air of adjoining properties.

For the foregoing reasons, the applicant submits that granting the requested special exception will not tend to adversely affect 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, §§ 5201.3 through 5201.6. The applicant outlines below how the Application, as it pertains to Lot 30, complies with each itemized criterion.

Compliance with Conditions for Special Exception from Rear Yard and Percentage of Lot Occupancy Provisions under Subtitle D, § 5201.2(a), (b)

§ 5201.3 – 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.

Lot 30 is a corner lot located at the intersection of 17th Street NE and Randolph Street NE, and as such is adjoined by only one other lot.

The applicant notes that the proposed accessory structure is only eight feet (8 ft.) in height and is strategically located on the side of the yard opposite the only adjoining lot, specifically to minimize any potential impact on the light and air available to the adjoining property.

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

As noted above, Lot 30, being a corner lot, is the last in a row of detached dwellings on medium-sized lots and thus features side yards between principal structures.

Although side yards are not prescribed for accessory structures (except for those accessory structures permitted within a side yard), the proposed accessory structure is set back at least approximately twenty-five feet (25 ft.) from the shared side property line with the only adjoining property.

The accessory exercise studio will be used for private purposes on an intermittent basis and is not intended as habitable space.

(c) Will not substantially visually intrude upon the character, scale, and pattern of houses along the subject street frontage.

The applicant contends that the proposed accessory structure does not substantially intrude upon the character, scale, and pattern of houses along the street and alley frontage. Several lots along the row within the square, including the adjoining lot, feature accessory structures or buildings.

(d) Graphical representations.

Subtitle D, § 5201.3(d) requires that, in demonstrating compliance with paragraphs (a), (b), and (c) of this subsection, the applicant 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 of Lot 30 and stands ready to provide additional graphical representations as necessary, or as the Board may deem fit to require.

§ 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 is not averse to any special treatment the Board deems fit to require.

§§ 5201.5–5201.6 – 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 or lot occupancy beyond the forty percent (40%) authorized for Lot 30, and the proposed project will comply with the height and number-of-stories limitations applicable to accessory structures in the zone district of location.

§ 5201.7 currently appears in 11 DCMR Subtitle D, Chapter 52 (2016 Zoning Regulations, as amended).

- 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 Applicant contends that this provision is inapplicable, as the instant Application does not seek relief from the Alley Centerline setback 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, the special exception:

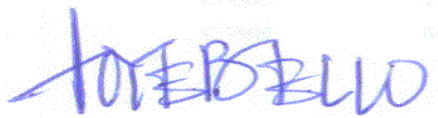
- (a) Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;
- (b) Will not tend to adversely affect the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and
- (c) Will meet such special conditions as may be specified in 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 above under “Statement of Compliance with the Burden of Proof.”

The applicant has outlined 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, §§ 5201.3 through 5201.6

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

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "TOYE BELLO". The signature is stylized with a large initial "T" and "B".

Toye Bello

Authorized Representative for Applicant