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29 May 2020

District of Columbia Office of Zoning  
441 4<sup>th</sup> Street NW  
Suite 200-5  
Washington DC 20001

RE: BZA Application - 1138 51<sup>st</sup> NE Washington DC 20019 Square 5201 / Lot 0809

## Burden of Proof Statement

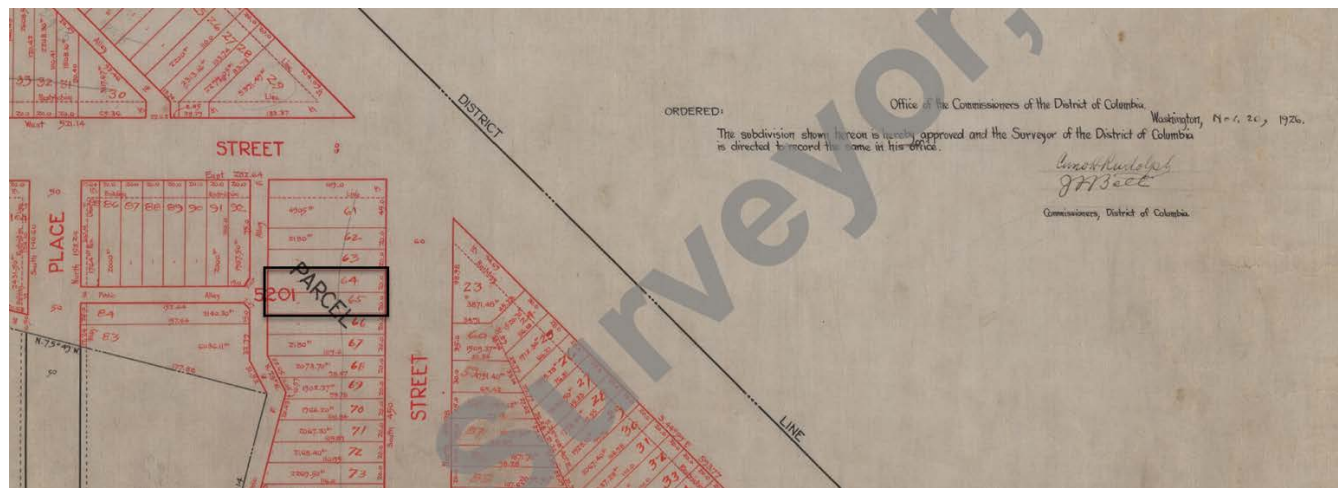
This statement is submitted on behalf of Ekop I. Graham, the applicant and Owner (Owner) of the lot of record (Property) located at 1138 51<sup>st</sup> Street NE (Square 5201, Lot 0809). This Property is in a R-2 residential zone.

The neighborhood contains detached, townhouses and semi-detached family residences with a one story detached single family home on the south side and a low rise, three (3) story, multifamily apartment building and on the north side, the Property faces east onto 51 Street.



The Owner proposes to subdivide the unimproved, vacant, forty (40) foot wide lot of record into two (2) twenty foot (20'-0) wide equal parcels to construct a semi-detached structure to facilitate a two (2) family semi-detached two (2) story residential dwellings that will be in keeping with the existing character of the neighborhood housing.

The Property was two (2), twenty (20) foot wide lots in the 1926 subdivision, square 5201, lot 64 and 65.



**CHAPTER 3 RESIDENTIAL HOUSE ZONES – R-1-A, R-1-B, R-2, AND R-3**

**300 PURPOSE AND INTENT**

300.4 The purpose of the R-2 zone is to:

- (a) Provide for areas with semi-detached dwellings; and

300.5 The R-2 zone is intended to provide for areas predominantly developed with semi-detached houses on moderately sized lots that also contain some detached dwellings.

Subtitle D-13

As a lot of record it is a matter-of-right for the Owner to develop this Property.

**CHAPTER 1 INTRODUCTION TO RESIDENTIAL HOUSE (R) ZONES**

**100 GENERAL PROVISIONS**

100.1 The Residential House (R) zones are residential zones, designed to provide for stable, low- to moderate-density residential areas suitable for family life and supporting uses.

100.2 In addition to the purpose statements of individual chapters, the provisions of the R zones are intended to:

- (a) Provide for the orderly development and use of land and structures in areas predominantly characterized by low- to moderate-density residential development;
- (d) Allow for the matter-of-right development of existing lots of record;
- (e) Establish minimum lot area and dimensions for the subdivision and creation of new lots of record; and

Subtitle D-6

The subject Property was established in 1926, prior to the current 2016 zoning regulations. A semi-detached building on the divided lot will not be in compliance with the current regulations.

The Owner has chosen to develop this property as a matter-of-right and is seeking relief through three (3) area variances to facilitate compliance with the current R-2 regulations.

To build an semi-detached house, it has to be on it's own lot-of-record will require a splitting of the existing forty (40) foot lot. The current 2016 regulation requires a thirty (30) foot minimum lot width. The Owner is requesting relief, from Subtitle D-14 Table D §302.1 to reduce the R-2 thirty (30) foot semi-detached lot width to twenty (20) feet, as the lot was originally formed in the 1926 subdivision, as a matter-of-right. The first area variance request for relief.

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**CHAPTER 2 GENERAL DEVELOPMENT STANDARDS (R)**

**200 GENERAL PROVISIONS**

**201 MAXIMUM NUMBER OF DWELLING UNITS**

201.1 In all R zones, one (1) principal dwelling unit per lot of record shall be permitted as a matter-of-right.

Subtitle D-9

With the splitting of the lot the newly formed lots will not be in compliance with the 2016 regulation for the minimum lot area Subtitle D-14 Table D §302.1 and the Owner is seeking relief for a reduction from three thousand (3,000) sq. ft. lot area to a two thousand one hundred eighty (2,180) sq. ft. lot area. The second area variance request for relief.

**TABLE D § 302.1: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS**

Zone	Minimum Lot Width (ft.) for building type; applicable to all zones in left column	Minimum Lot Area (sq. ft.)
<u>R-2</u>	<u>30 (semi-detached)</u>	<u>3,000 (semi-detached)</u>

The third area variance is relief from the 2016 zoning regulation for an eight (8) foot side yard to a five (5) foot width. The new side yard will facilitate a building foot print and street elevation for a two (2) story building to match the character of the neighboring homes and would be a good transition from the three story apartment building to the one story homes.

A twelve (12) foot wide dwelling for a growing family would require a third floor with an attic and will be taller than the adjacent three (3) story apartment building to dwarf the single family adjacent one story home and would be out of character. However, five (5) foot side yards are allowed, by code, for existing semi-detached side additions, Subtitle D-11 §206.7.

206.3 One (1) side yard, a minimum of eight feet (8 ft.) in width, shall be provided for all semi-detached buildings in the R-2 zone.

206.7 In the case of a building with a non-conforming side yard, an extension or addition may be made to the building; provided, that the width of the existing side yard shall not be reduced or eliminated; and provided further, that the width of the side yard adjacent to the extension or addition shall be a minimum of five feet (5 ft.).

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2); Final Rulemaking & Order No. 17-23 published at 66 DCR 2337 (February 22, 2019).

The following table is a summary of the three (3) area variance the Owner is seeking relief from:

Area Variance	Chapter 1 Residential Zone R-2	Semi-Detached Code	Present	Proposed Divided Lot(s)	Code Change
1 Lot width minimum – ln-ft	D-302.1	30'-0	40'-0	(2) 20'-0	-0.30%
2 Minimum lot area - sq-ft	D-302.1	3,000	4,360	(2) 2,180	-27%
3 Side yard set back	D-206.3	8'-0	0	5'-0	-0.38%

## CHAPTER 10 VARIANCES

### 1000 GENERAL PROVISIONS

1000.1 With respect to variances, the Board of Zoning Adjustment has the power under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(3) (formerly codified at D.C. Official Code § 5-424(g)(3) (2012 Repl.)), "[w]here, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the original adoption of the regulations, or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under D.C. Official Code §§ 6-641.01 to 6-651.02 would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, to authorize, upon an appeal relating to the property, a variance from the strict application so as to relieve the difficulties or hardship; provided, that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map."

### 1001 VARIANCE TYPES

1001.1 Variances are classified as area variances or use variances.

1001.2 An area variance is a request to deviate from an area requirement applicable to the zone district in which the property is located.

1001.3 Examples of area variances are requests to deviate from:

- (a) Requirements that affect the size, location, and placement of buildings and other structures such as height and FAR;

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Under D.C. Code § 641.07 (g)(3) and Subtitle X §1000.1, the Board is authorized to grant an area variance where it finds three conditions are satisfied:

To illustrate how the Owner does satisfy the three (3) previously mentioned test items to support the BZA approval of this application, we submit the following:

1 - The shape and or size of the property.

Under the present 1916 Zoning Code this 1926 Lot-of Record is too small to comply with the area requirements for the Owner to exercise their matter-of-right to develop a semi-detached house as permitted in the R-2 zoning code. This property was two (2) lots in the original subdivision.

2 - A hardship to the Owner.

To justify the development of the subject property, under the present code, would be to construct of a single family home that would over build the neighborhood with a large house that would not be in character, style and scale of the neighboring single family homes in the neighborhood. Such a house would significantly reduce the number of potential buyers who could afford or want a large home in a middle class working neighborhood with a three story apartment building as a neighbor and would make it difficult to sell.

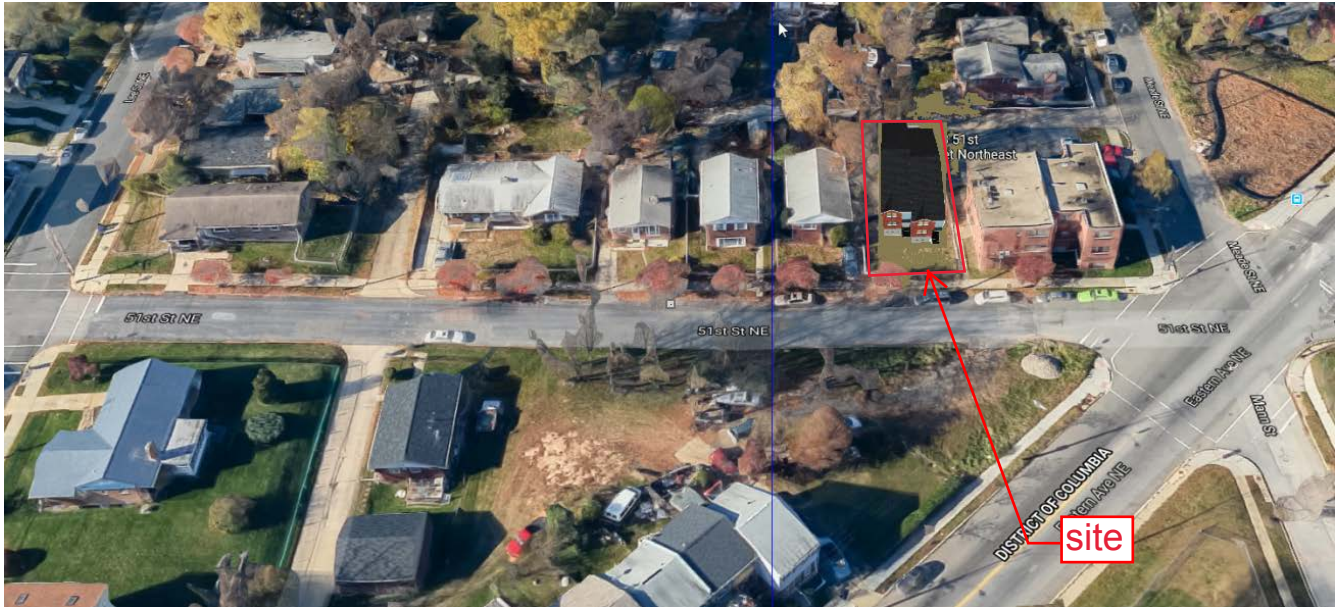
3 - The granting of the variance will not be a detriment to the public and does not impair the intent, purpose or integrity of the zoning code.

Granting this application will not be of substantial detriment to the public good. The proposed semi-detached will have no impact on the adjacent neighbors or the neighborhood where semi-detached homes are already existing.

The Owner, respectfully, request relief from the area restrictions in the 2016 R-2 zoning regulation with the granting of the three (3) area variance to allow the erection of a semi-detached home that will be in harmony with the existing single family neighborhood housing.

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Thanking you for your consideration.

Please advise.

Respectfully,



Andrei T. Banks, RA

Ekop I. Graham, Owner - Applicant / Andrei T. Banks, RA, Agent

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