

DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Applicant’s Statement in Support of Special Exception Relief

Paul and Marilyn Pearlstein

2928 Ellicott Street, NW; Square 2270, Lot 8

I. INTRODUCTION.

This Applicant’s Statement is submitted on behalf of Paul Pearlstein (the “**Applicant**”), owner along with his wife Marilyn Pearlstein, of the property located at 2928 Ellicott Street, NW (Square 2270, Lot 8) (the “**Subject Property**”). The Applicant is proposing to construct a small one-story addition (the “**Addition**”) at the rear of the existing single-family detached building (the “**Building**” or “**Principal Building**”) in order to provide an additional bedroom and bathroom.

The Property is located in the R-8 Zone, where, pursuant to D § 507.1, “the minimum side yard requirement for all buildings, accessory buildings, or additions to buildings in the R-8, R-9, and R-10 zones shall be twenty-four feet (24 ft.) in the aggregate, with no single side yard having a width of less than eight feet (8 ft).” The Subject Property has a western side-yard measuring between two feet (2 ft.) and twelve feet (12 ft.) pursuant to the unique side yard requirements of D § 507.1, which includes accessory structures, and an eastern-side yard measuring seven feet (7 ft.). The proposed Addition is on the eastern side of the Subject Property and will have an eight-foot (8 ft.) side yard setback; however, the aggregate of the proposed side yards will still be less than the required twenty-four feet (24 ft.).

There is also an existing accessory building (the “**Accessory Building**” or “**Accessory Structure**”) on the west-side of the Subject Property. Subtitle D § 5005.1 states that “no minimum side yard is required for an accessory building in a R zone, unless the accessory building is located beside the principal building, whereby it shall be removed from the side lot

line a distance equal to the required side yard and from the principal building a minimum of ten feet (10 ft.).” While the Applicant is not modifying the Accessory Building in any way, the extension of the Principal Building results in the Accessory Building being “located beside the principal building” which in turn triggers the need for relief from D § 5005.1. Accordingly, the Applicant is requesting special exception approval pursuant to D § 5201 from the side yard requirements of D § 507.1 and the Accessory Building side yard requirements of D § 5005.1.

II. BACKGROUND.

A. Description of the Property and Surrounding Area.

The Subject Property is located in the R-8 Zone. The Subject Property is improved with a detached, single-family dwelling (the “Building”). The Subject Property is a relatively large lot, with 6,692 square feet of land area. Abutting the Subject Property to the east, west, and south are other detached one-family dwellings. Abutting the Subject Property to the north is Ellicott Street, NW. The area is made up of detached single-family dwellings on large lots, as is consistent with the purpose of the R-8 Zone.¹ The Subject Property has two (2) side yards; the western side yard measures between two feet (2 ft.) at its narrowest and twelve feet (12 ft.) at its widest point; and the eastern side yard measures seven feet (7 ft.). The existing structure has two (2) stories above ground and one (1) below ground. The Principal Building footprint is 1,467 square feet. There is a small one-story Accessory Structure located in the western side yard which has a footprint of 255 square feet.

B. Proposed Project.

¹ D § 500.3: The R-8 zone is intended to permit detached houses on large lots.

The Applicant is proposing to construct a small, one-story Addition at the rear of the Building. The proposed Addition will only have a footprint of 282 square feet and will accommodate a new hallway, bedroom and bathroom. The Addition is set back eight feet (8 ft.) from the western lot line and complies with the individual setback requirement; however the aggregate of the total proposed side yards will still be less than twenty four feet (24 ft.), so the Applicant must request relief for the Addition and for the existing Accessory Building, as it is now located next to the Principal Building and does not meet the applicable side yard requirements.

III. THE APPLICATION SATISFIES SPECIAL EXCEPTION REQUIREMENTS OF 11-X DCMR § 901.2, 11-D DCMR § 5201.

A. Overview. Pursuant to 11-X DCMR § 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 11-D DCMR § 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. General Special Exception Requirements of 11X DCMR § 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). Given the Addition is a small one-story Addition meeting the eight-foot (8 ft.) side yard requirement, the twenty-five foot (25 ft.) rear yard requirement, and which is separated by at least fifty feet (50 ft.) from the building to the east, the proposed Addition will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps, as well as other properties in this area. The Subject Property will continue to be used as a one-family dwelling and the Addition will not be visible from Ellicott Street, NW.

C. Requirements of 11-D DCMR § 5201.

The proposal in this Application satisfies the requirements of 11-D 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 Addition will not unduly affect light and air available to the neighboring properties. The Addition is a small, one-story Addition and will be located at the rear of the Subject Property and only on the eastside of the Subject Property. The Addition will face the rears of the two (2) adjoining properties—2934 Ellicott Terrace, NW (east) and 4821 Linnean Avenue, NW (south). The Addition is separated from the building to the east by at least fifty feet (50 ft.) and from the building to the south by at least eighty feet (80 ft.). Accordingly, any shadow created by the small one-story Addition will not rise to the level of undue. Regarding the Accessory Structure; it already exists, and the

Applicant is not proposing to alter it in any way. Accordingly, the requested side yard relief for the Accessory Structure will not have an undue impact on the light and air available to the neighboring properties.

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

The privacy of use and enjoyment of any neighbors will not be unduly compromised by the proposed Addition. The Applicant is proposing some windows, but they have been located to protect the privacy of the residents of the Subject Property and neighboring properties. The windows on the west-side face the interior of the lot and are located approximately fifty feet (50 ft.) from the Building to the west. That view is also blocked by the existing Accessory Building on the westside of the Subject Property. There are a few, small windows proposed on the eastside. These are located at the very top of the east façade in order to maintain privacy, and their purpose is to let light and air into the Addition. Regarding the Accessory Structure; it already exists, and the Applicant is not proposing to alter it in any way. Accordingly, the requested side yard relief for the Accessory Structure will not have an undue impact on the privacy and use of enjoyment of the neighboring properties.

(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 Addition, together with the existing Building, will not visually intrude upon the character, scale, or pattern of houses on Ellicott Street, NW. The Applicant is not altering the front façade in any way, nor is he proposing to increase the height of the Building. The Addition will not be visible at all from Ellicott Street and there is no alley

behind the Subject Property. Regarding the Accessory Structure; it already exists, and the Applicant is not proposing to alter it in any way. Accordingly, the requested side yard relief for the Accessory Structure will not substantially visually intrude upon the character, scale, and pattern of houses along Ellicott Street, NW.

- (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 to represent the relationship of the proposed Addition to 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 of up to fifty percent (50%).**

The proposed lot occupancy of all new and existing structures is thirty percent (30%).

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 outlined in this Applicant's Statement, the Applicant respectfully requests the special exception approval as detailed above.

Respectfully Submitted,

/S/ Alexandra Wilson

Alexandra Wilson
Sullivan & Barros, LLP
Date: December 23, 2019