



Advisory Neighborhood Commission 5E

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VIA IZIS

Frederick Hill, Chairperson
Board of Zoning Adjustment
441 4th Street NW Suite 2108
Washington DC 20001

Letter of Support: BZA #19729 – 2901 North Capitol St NE, Square 3500, Lot 0033 – Application for Area Variance and Special Exceptions Relief

Dear Chairperson Hill and Board Members:

On February 20, 2018, ANC5E recommends that the approval be grant for requested reliefs listed below for the property located at 2901 N. Capitol Street NE, pursuant to Subtitle X Section 1000.1: (1) Area Variance relief from Subtitle D Section 5201.3 for lot occupancy, and, pursuant to Subtitle X Section 901.2; (2) Special Exception Relief from Subtitle D-5201.1 for rear yard (D-306.2) and pervious surface (D-308.3), as well as (3) Special Exception Relief from Subtitle C-201.1 for expansion of a nonconforming condition, in order to obtain Retroactive Zoning Relief for an addition to a single-family attached dwelling on the property in the R-3 zone.

NATURE OF VARIANCE RELIEF AND STANDARD OF REVIEW

Variance Relief is needed from the requirements of Subtitle D § 5201.3 pertaining to the maximum permitted lot occupancy. That section permits 70% lot occupancy in the R-3 Zone for an addition to an existing structure. Because the Project comprises 88% lot occupancy, variance relief is required. *The total lot occupancy includes a deck constructed on the lot. Portions of the deck are also located in public space adjacent to the Property.* Under D.C. Code § 6-641.07(g)(3) and 11 DCMR § X-1000.1, the Board is authorized to grant an area variance where it finds that:

- *The property is affected by an exceptional size, shape or topography or other extraordinary or exceptional situation or condition;*
- *The owner would encounter practical difficulties if the zoning regulations were strictly applied; and*
- *The variance would not cause substantial detriment to the public good and would not substantially impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.*

THE APPLICANT MEETS THE BURDEN OF PROOF FOR VARIANCE RELIEF

A. The Property Is Affected by an Exceptional Situation (Character) or Condition

- *The property is characterized by an exceptional situation and condition as a result of (1) its unusual size and shape; and (2) the lot's unique location as a corner lot. See Exhibit A*

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Board of Zoning Adjustment
District of Columbia
CASE NO. 19729
EXHIBIT NO. 36

The Property is an irregular, nearly-triangular shaped corner lot. It has approximately 20 feet of frontage on North Capitol Street and narrows to less than 6 feet in the rear. Due to this shape, the Property is particularly small compared to others on the square. The triangular shape also creates the design challenges for any structure on the Property. This unique condition precipitated the relief requested associated with the addition to the Structure.

B. Strict Application of Zoning Regulations Would Result in Practical Difficulty

- *Strict application of the Zoning Regulations with respect to lot occupancy (§ D-5201.3) would result in a practical difficulty to the Applicant. The Structure is already principally constructed on the Property. See Photos at Exhibit B.*

Due to the small and irregular shape of the lot, and in order to comply with the maximum lot occupancy regulations, the Applicant would be required to demolish extensive portions of the Structure that were already permitted, and then to reconstruct a substantially smaller structure.

C. No Substantial Detriment to the Public Good or Impairment of the Zone Plan

- *The Property will be used as a single-family home for the Applicant, which is a matter-of-right use permitted in the R-3 Zone, and there will be no detriment to the public good.*

Moreover, the Structure’s lot occupancy appears to be significantly less than it actually is because there is ample public space adjacent to the Property. Therefore, there will be no substantial detriment to the public good or zone plan if the Board grants the requested variance relief.

NATURE OF SPECIAL EXCEPTION RELIEF AND STANDARD OF REVIEW

Special Exception Relief is required from D § 5201.1 for rear yard and pervious surface, as well as for expansion of a nonconforming condition pursuant to Subtitle C § 201.1. Subtitle D § 306.2 requires a minimum of 20 feet rear yard setback, and this requirement will not be met.

The Structure is constructed to approximately 14 feet of the rear property line, as such rear yard relief is required. The R-3 Zone requires a minimum of 20% pervious surface, which will not be met. D § 308.3. Consequently, relief from this requirement is required. Finally, the construction of the Structure expanded a nonconforming condition on the property, namely the maximum permitted lot occupancy. For this reason, the Applicant seeks special exception relief from Subtitle C § 201.1.

THE APPLICANT MEETS THE BURDEN OF PROOF FOR SPECIAL EXCEPTION RELIEF

The Special Exception Requirements for Rear Yard, Pervious Surface, and Expansion of a Nonconforming Condition Relief are Satisfied

Subtitle D § 5201.3 states that “an Applicant for special exception under this section shall demonstrate that the proposed addition or accessory structure shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property.” The Project meets the conditions of this section as follows:

- *The light and air available to neighboring properties shall not be unduly affected;*

The addition to the Property does not unduly impact the light and air of neighboring properties because the lot is an end lot on the corner of the block. Moreover, the requested relief is for the rear deck on the Property which is lower in elevation and thus less intrusive to the neighboring properties.

- *The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;*

The addition did not expand the Structure in a way that would impact the privacy of use and enjoyment of neighboring properties. There is ample public space to the south, the alley to the east, and the wide street to the west. Also, there is a privacy fence between the Property and the adjacent lot. Therefore, there will be no impact on the privacy, use and enjoyment of the neighboring properties.

- *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;*

As described above, the Property is the corner lot on a row of attached homes. The addition to the rear of the Structure does not change the character, scale, and pattern of houses along the street frontage on North Capitol Street NE. The Structure's façade has been preserved, and the entire Project was specifically designed to enhance and maintain the character of the block. **See Photos at Exhibit B.**

- *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 **See Plans and Elevations at Exhibit C.***
- *The Board of Zoning Adjustment may approve lot occupancy of all new and existing structures on the lot as specified in the following table . . ." 70% in the R-3 Zone.*

The Applicant seeks a variance from this requirement, as outlined above.

The Proposed Lot Occupancy Is Harmonious with the General Purpose and Intent of the Zoning Regulations and Maps

The Structure will conform with the purpose and intent of the zoning regulations. "The R3 zone is intended to permit attached rowhouses on small lots." Subtitle D § 300.7. The requested relief will not change the use of the Property and will permit the Applicant to occupy his single-family rowhome.

The special exception relief is necessary, specifically because the lot is particularly small and irregular. Therefore, the Project is harmonious with the intent of the zoning regulations for the R-3 zone.

The Lot Occupancy Relief Will Not Adversely Affect the Use of Neighboring Property

The use of neighboring Property will not be adversely affected by granting the requested relief. As stated above, the Property is a corner lot, the last on the row, and faces the alley to the rear. The Project will continue to allow light and air to access adjacent structures, as it does now, and it brings

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improvement to the corner of North Capitol and Girard St NE.

STATEMENT OF COMMUNITY OUTREACH

The Applicant attended the Stronghold Civics Association Meeting to present of this project. No oppositions were mentioned at that meeting. Outside of this meeting, the applicant has received support letters from his neighbors.

IN CONCLUSION

For all of the reasons listed above which was drawn from the Applicant's file, this Project meets the applicable standards for variance and special exception relief under the Zoning Regulations.

The Applicant came before ANC 5E at a duly noticed public meeting held at the Friendship-Armstrong Public Charter School on February 20th, 2018.

ANC 5E consists of ten (10) Commissioners, the presence of six (6) of which constitutes a quorum. With 8 Commissioners presents by a vote of 8 in favor, 0 opposed, and with 0 abstentions, ANC 5E vote to support this project.

Sincerely,


BRADLEY THOMAS, ANC 5E Chairperson


C. Dianne Barnes, ANC 5E09 SMD

ATTACHMENTS:

Exhibit A – Zoning Report

Exhibit B – Photos

Exhibit C – Existing Drawings/Revision to Approved Permit