

BOARD OF ZONING ADJUSTMENT

Applicant’s Statement of Peter and Karen Byrne

514 Archibald Walk, SE (Square 877, Lot 845)

I. INTRODUCTION AND NATURE OF RELIEF SOUGHT.

This Statement is submitted on behalf of Peter and Karen Byrne (collectively referred to as the “**Applicant**”), owners of the property located at 514 Archibald Walk, SE (Square 877, Lot 845) (the “**Subject Property**”). The Subject Property is an alley lot improved with a one-story building currently used as a garage (the “**Building**”).

The Applicant is proposing to construct a second story addition on top of the existing Building footprint (the “**Addition**”). The Applicant intends to maintain the existing parking space on the first floor of the garage and is proposing to convert a portion of the first floor and all of the second floor to a residential dwelling unit (the “**Project**”). In order to complete the Project, the following areas of relief are required:

1. Special Exception Relief Pursuant to E-5201.3 (Side Yard and Centerline Setback)

The Applicant is proposing to construct an Addition on top of the existing Building footprint. Buildings on alley lots in the RF-1 Zone are required to provide a five-foot (5 ft.) side yard setback from any side lot line abutting a non-alley lot (E § 5105.1). The Subject Property’s north-side lot line directly abuts 546 E Street—a non-alley lot. The existing structure is not set back from the north-side lot line and the proposed Addition will also extend lot line to lot line and will not be set back. Accordingly, the Applicant must request relief from the alley lot side yard provisions.

In the RF-1 Zone, Buildings on alley lots must also be set back twelve feet (12 ft.)¹ from the centerline of any abutting alley (E § 5106.1). The Building has frontage on two alleys. The alley to the east is twenty-four feet (24 ft.) wide and the Building is set back twelve feet (12 ft.) from the centerline of that alley. However, the alley to the west is only ten feet (10 ft.) wide and the Building is setback only five feet (5 ft.) from the centerline of that alley. Accordingly, the Applicant must request relief for the centerline setback for the western alley.

Subtitle E § 5201.3 states that an enlarged building on an alley record lot² may obtain relief from the standards governing “yards, including alley centerline setback . . . subject to the provisions of [E § 5201.4-7] and the general special exception criteria at Subtitle X, Chapter 9.” Accordingly, the Applicant is requesting relief pursuant to E § 5201.3.

2. Special Exception Pursuant to U § 601.1(d) to Use the Building as a Residence

The Zoning Regulations permit alley lot buildings to be used as a residential unit as a matter-of-right so long as the use requirements of U § 600.1(e) are met. Any projects not meeting that criteria may still use an alley lot building for residential purposes, subject to special exception approval pursuant to U § 601.1(d). One of the requirements for a matter-of-right use under U § 600.1(e) is that the alley lot have access to an improved public street either: (A) through an improved alley or alleys twenty-four feet (24 ft.) or more in width; or (B) through an improved alley no less than fifteen feet (15 ft.) in width and within three hundred (300) linear feet of an

¹ A pending text amendment (ZC Case 19-13) would permit a smaller setback of seven and a half feet (7.5 ft.), but this would not change the requested relief, only minimize the degree of relief.

² At the time of this filing, the Subject Property is an Assessment and Taxation lot, not a record lot. Once effective, the text amendment in Zoning Commission Case 19-13 would permit the Subject Property to be converted to a record lot as a matter of right because the lot existed prior to May 12, 1958 (see Deed from 1926, included with this Application). The Zoning Commission voted to take proposed action on the Text Amendment on July 13, 2020 and anticipates that final action will occur in September 2020 with the Text Amendment becoming effective in October—well before any BZA hearing for this case would be scheduled.

improved public street. The alley to the east of the Subject Property is twenty-four feet (24 ft.) and it connects to a fifteen foot (15 ft.) wide alley that leads to G Street, SE and E Street, SE. However, the alley in front of the Subject Property is more than three hundred (300) linear feet from both G Street and E Street. Therefore, the Applicant must request special exception approval pursuant to U § 601.1(d) in order to use the Building as a single-family dwelling.

II. JURISDICTION OF THE BOARD.

The Board has jurisdiction to grant the special exception relief requested pursuant to Subtitle E § 5201.3 from the requirements of E § 5105.1-5105.6; and pursuant to U § 601.1(d).

III. BACKGROUND.

A. Description of the Subject Property and Surrounding Area.

The Subject Property is located at 514 Archibald Walk, SE, is in the RF-1 zone district, and the Capitol Hill Historic District. The Subject Property is an alley lot with 632 square feet of land area. Abutting the Subject Property to the north is the rear of 645 E Street, SE—a non-alley lot—which is improved with a detached single-family dwelling. Abutting the Subject Property to the south is an alley lot (516 Archibald Walk), improved with a single-family row building. Abutting the Subject Property to the west is an alley measuring ten feet (10 ft.) in width. There are four other alley lots with frontage on that alley, including three single-family dwellings and a commercial building. Abutting the Subject Property to the east is an alley measuring twenty-four feet (24 ft.) in width. There are a number of other structures abutting that alley, including accessory buildings on lots facing 7th Street, SE and four single-family dwellings. There are also a number of small lots improved with garages along the southern portion of that alley.

B. Proposed Project.

The Subject Property is currently improved with a one-story Building used as a garage with room for one (1) parking space. The Applicant is proposing to construct a second story above the

existing building footprint. The Applicant will maintain the garage use on the first floor but will convert a portion of the garage to an entry hall and laundry room for the proposed one-bedroom residential dwelling unit on the second floor. The Applicant is proposing solar panels on the roof.

The Building design is subject to review by the Historic Preservation Review Board (“HPRB”). The Building will comply with the height and stories requirement for alley lots in the RF-1 Zone. The Applicant is proposing a parapet wall that will match the height of the buildings to the south in order to continue the pattern of houses along the alley.

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

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 E § 5201.3 and U § 601.1(d) 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 Subtitle 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 also permit the use of alley buildings as single-family dwelling either as a matter-of-right or special exception. Therefore, the proposed use was contemplated by the Zoning Commission and enumerated in the 2016 Zoning Regulations. Accordingly, the proposed Addition and use 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 also not adversely affect the use of neighboring properties as the proposed Addition limits impacts on light, air, and privacy.

C. Requirements of Subtitle E § 5201

In order to obtain relief from the side setback and centerline setback requirements, the Application must meet the criteria for relief under E § 5201.4-7:

E § 5201.4: 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;

The light and air available to neighboring properties shall not be unduly affected by the proposed Addition. The Subject Property is already improved with a one-story dwelling that is not set back from the northern lot line shared with the rear of the non-alley lot to the north. The

Applicant is requesting relief so that the second story addition can also extend lot line to lone line, rather than be set back five feet (5 ft.) from the northern lot line. The Applicant has provided shadow studies (See Plans, pp. 8-9) demonstrating that while there is some shadow on the adjacent property to the north, the shadow is minimal and only on the rear yard. The difference in shadow between a five foot (5 ft.) set back and the proposed second story addition would not rise to the level of undue.

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

The Applicant is proposing only one (1) new window on the south-side of the Building, towards the front near the twenty-four foot (24 ft.) wide alley. That window will face down the alley and not towards any windows on neighboring properties. The Applicant is also proposing a window on the north-side of the Building, but that window has been designed to let light in without compromising privacy. The Applicant is proposing windows facing west, towards the small ten-foot (10ft.) wide alley. The Applicant is proposing two (2) small windows on the eastside of the Building, facing the twenty-four foot (24 ft.) wide alley. Those windows are small and have no views into any adjacent structures. Accordingly, the privacy of use and enjoyment of neighboring properties shall not be unduly compromised.

(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 design of the Addition and proposed Project is subject to review and approval by HPRB. Regardless, the Addition shall not substantially visually intrude upon the character, scale, and pattern of houses along the alley. The proposed renovation should improve the view of 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.

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

Section 5201.5: 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.

If necessary, the Applicant will comply with any special treatment.

Section 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.

This section is not being 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.

5201.7 Where an application requests relief from the alley centerline setback requirements under this section, the Office of Zoning shall refer the application to the following agencies for their review and recommendations, to be filed in the case record within the forty- (40) day period established by Subtitle A § 211:

- (a) District Department of Transportation (DDOT);**
- (a) Department of Public Works (DPW);**
- (b) Metropolitan Police Department (MPD);**
- (c) Fire and Emergency Medical Services Department (FEMS);**
- (d) DC Water (WASA); and**
- (e) If a historic district or historic landmark is involved, the Historic Preservation Office (HPO).**

The Application is requesting relief from the alley centerline setback. Accordingly, the Office of Planning will refer the Application to the above-referenced agencies. The Applicant welcomes feedback from those agencies.

D. Requirements of Subtitle U § 601.1(d)

In order to use the Building as a single-family dwelling, the Application must meet the criteria for approval under U § 601.1(d):

(1) The alley lot is not wholly or partially within the R-1-A, R-1-B, or R-2 zones;

The alley lot is not wholly or partially within the R-1-A, R-1-B, or R-2 Zones.

(2) A building may not be constructed or converted for a dwelling unit unless there is a minimum of four hundred and fifty (450) square feet square feet of lot area;

The lot has 632 square feet of lot area.

(3) The alley lot connects to an improved public street through an improved alley or system of alleys that provides adequate public safety, and infrastructure availability; and

The lot connects to an improved public street through an improved alley and system of alleys that provides adequate public safety and infrastructure availability.

(4) The Board of Zoning Adjustment shall consider relevant agency comments concerning: (A) Public safety, including any comments from the Fire and Emergency Medical Service Department and the Metropolitan Police Department; (B) Water and sewer services, including any comments from the Water and Sewer Authority, especially the Department of Permit Operations; (C) Waste management, including any comments from the Department of Public Works; and (D) Traffic and parking, including any comments from the District Department of Transportation; and

The Application will be referred to those agencies pursuant to E § 5201.7.

(5) An applicant shall submit or arrange for the submission of agency comments to the official case record. If no agency submission occurs, an applicant shall instead describe any communications with relevant agencies.

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IV. CONCLUSION.

Applicant's Statement
514 Archibald Walk, SE

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

Respectfully submitted,

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Date: August 31, 2020