

**Burden of Proof Statement
Request for Special Exception Approval
5182 Fulton Street NW**

On behalf of Bradley Halligan (the “Applicant”), the owner of the property located at 5182 Fulton Street, NW (Square 1419, Lot 0838) (the “Property”), we are submitting this request for Special Exception approval under Subtitle D Section 5201.1 of the Zoning Regulations. Specifically, the Applicant is seeking Special Exception relief from the side yard requirements contained in Subtitle D Sections 206.2 and 206.7 to allow for the construction of a rear addition to an existing, single-family, semi-detached dwelling. As discussed in detail below, the relief required is necessary to allow the Property to retain a zero-foot setback along the “attached” property boundary, as is customary for semi-detached structures. The proposed addition will not impair the purpose or intent of the R-1-B Zone or have any adverse impacts on the surrounding community.

I. Board's Jurisdiction

The Board of Zoning Adjustment (the “Board” or “BZA”) has jurisdiction to grant the relief requested pursuant to Subtitle D §§ 206.2, 206.7, and 5201.1 of the Zoning Regulations, in accordance with the provisions of Subtitle X § 901.

II. Site Location and Characteristics

The Property is located on Fulton Street, NW, just behind the neighborhood-serving commercial uses along MacArthur Boulevard. The Property is zoned R-1-B (“Residential House”), which “is intended to provide areas predominately developed with detached houses on moderately sized lots.” (*emphasis added*) (*See* Subtitle D § 300.3). The Property is unique in that it is part of a very small section of semi-detached structures located within the R-1-B Zone. The Property has a net lot area of approximately 3,148 square feet and is currently improved with a two-story (with walkout basement), approximately 1,232 square foot, semi-detached dwelling.

III. Requested Relief

The requested relief is driven by the fact that the Property is improved with a semi-detached dwelling, but located within a predominately detached zone. A semi-detached building is, by its very definition, “[a] building that has only one (1) side yard.” Subtitle D § 206, which governs side yards in the residential zones, does not provide a standard for semi-detached buildings in the R-1-B Zone. Where setback standards are provided for semi-detached buildings (*e.g.* in the R-2, R-3, R-13 and R-17 zones), only one side yard is required (*see* Section 206.3 and 206.4). However, per our conversations with DCRA, we understand that Section 206.2 of the Zoning Ordinance has been interpreted to require two, eight foot side yards on the Property (despite the fact that this standard is expressly for detached buildings), thereby making the existing conditions non-conforming. Although Section 206.7 does allow for an addition to a building with a non-conforming side yard, it requires the width of the side yard to be a minimum of five feet (which

the existing building does not have, as a result of its semi-detached condition). As such, the Applicant is seeking Special Exception relief to allow for an addition that maintains the existing, non-conforming side yard on the Property (e.g. only one eight-foot side yard and one zero-foot setback).

The proposed addition will not increase the existing building height and conforms with the required rear yard setbacks – the addition will only extend a maximum of 10 feet beyond the farthest rear wall of the adjoining residential dwelling and be setback a minimum of 25 feet from the rear property boundary.

As discussed in detail below, the proposed addition is compatible with the surrounding neighborhood and does not adversely impact the adjacent properties. Furthermore, the Applicant has shared his plans with his immediately adjacent neighbors, who have expressed support for the rear addition.

IV. Proposed Construction

To respond to the unique challenges presented by COVID-19 and to provide care for aging family members, the Applicant is proposing several modifications that are intended to modernize and improve the efficiencies of the existing structure. Specifically, the Applicant is proposing to construct a two-story (plus basement) rear addition to the existing semi-detached dwelling. The proposed addition will not result in any additional bedrooms but rather, will create interior space that is more efficient and in-line with modern residential design standards. The additional space proposed by this Application is especially important in the current COVID-19 environment in which the Applicant, and many residents in the City, are spending more time in their homes. Post-Pandemic, the Applicant’s employer has decided to implement a permanent hybrid model – with three days of remote work and two days in the office. As such, one of the primary objectives of the rear addition is to create a necessary, separate home office and indoor fitness/recreation area.

The existing dwelling was built circa 1928. As a result, the interior rooms and layouts do not conform to modern design standards. This often presents challenges, particularly for aging individuals who have difficulties climbing and descending stairs as they get older. As such, through the rear addition, the Applicant is proposing to construct a new half-bath on the main level (where no bathroom currently exists). Furthermore, the rear addition will allow for the existing bedrooms to be right-sized, in accordance with current residential design standards. Both of these changes will facilitate the Applicant’s care of his aging parent and relatives.

As illustrated on the proposed architectural plans submitted in the record, the Applicant is proposing a design that is compatible with the existing architecture and surrounding neighborhood. Specifically, the exterior of the rear addition will be constructed of Hardie Plank siding (or equivalent), that will be painted to complement the existing home.

V. Special Exception Criteria

Subtitle X § 901.2 permits the Board to grant a special exception where a proposed use will (1) *be in harmony with the general purpose and intent of the Zoning Regulations and Zone*

Maps, and (2) not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps, subject to the specific conditions specified in the Zoning Regulations for each use. Subtitle D § 5201 of the Zoning Regulations sets forth additional criteria for Special Exception relief from the development standards of the R-1-B Zone, as discussed in detail in Section VI below.

VI. Justification

A. The Special Exception Request Meets the General Special Exception Requirements of Subtitle X § 901.2

The proposed building addition is consistent with the general purpose and intent of the Zoning Regulations and Zoning Map. The Property is located in the R-1-B Zone. The purpose of the R-1-B Zone is, among other things, to (1) protect quiet residential areas now developed with detached dwellings; and (2) promote a suitable environment for family life. (*See* Subtitle 11-D § 300.1(b)). The proposed addition will not change the nature of the existing house on the Property – the Property will continue to be used for single-family residential use, as recommended by the General Plan. The extension will simply allow for interior space that is better suited and able to accommodate the Applicant’s needs, especially in light of the additional demands placed on one’s personal residence as a result of COVID-19. Specifically, the proposed building addition will allow for a necessary home office to accommodate remote work (even post-Pandemic) and additional recreational, fitness, and living space. Equally importantly, the proposed addition will create space that is better suited and will further enable the Applicant’s care of his aging father and relatives. There will not be an increase in the number of bedrooms, and thus, the intensity of the house will not change.

Moreover, the existing setbacks will not change as a result of this Special Exception – the proposed addition will maintain the single, existing eight-foot side yard setback to the northwest. Along the interior lot line (to the southeast) the Property will maintain the zero foot setback condition that is customary for semi-detached buildings. To this end, the rear addition will reinforce the purpose of the R-1-B Zone. Furthermore, as discussed above and in greater detail below, the proposed addition is in keeping with the character of the surrounding neighborhood and will not impact the use of the adjacent properties.

B. The Applicant Meets the Specific Requirements of Zoning Regulation Subtitle D § 5201.1 for Zoning Relief from Development Standards of the R-1-B Zone.

Exceptions to the development standards of the R-1-B Zone are permitted, pursuant to Subtitle D § 5201.1, if the requirements of Subtitle X § 901.2 are met and subject to the following additional provisions:

- i. Section 5201.1. Special Exception relief is applicable only to an addition to a building with only one (1) principal dwelling unit.*

The Property is improved with a single-family, semi-detached dwelling. No accessory dwelling units are constructed on the Property. The existing, single-family use will remain unchanged.

- ii. Section 5201.4. The proposed addition will not have a substantially adverse effect on the use or 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 light and air available to the neighboring properties will not be unduly affected by the relief requested. As discussed herein, the proposed rear addition will not extend more than 10 feet beyond the farthest rear wall of the adjacent dwelling. The proposed side yard relief requested will have no impact on the light available to the neighboring properties. As mentioned above, the proposed rear addition will maintain the existing eight-foot side yard to the northwest and the zero-foot setback to the southeast (as is customary for semi-detached buildings). As a result of the proposed addition, the building will only get closer to the rear alleyway and the confronting commercial uses in the MU-3A Zone (including the associated parking and back-of-house operations), and as such, will not have adverse impacts on the light and air available to the neighboring residential properties.

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

The proposed addition has been designed to ensure that the privacy, use and enjoyment of the neighboring properties will not be unduly compromised. As mentioned above, as a result of the proposed addition, the building will only get closer to the confronting commercial uses located on the opposite side of the alleyway, to the rear of the Property. Given the intervening 16-foot wide alleyway, surface parking and back-of-house commercial operations that confront the Property, the proposed addition will have no effect on these commercial properties.

The proposed additional will not be readily visible from Fulton Street. And, as discussed above, the existing side-yard setback to the northwest and the zero-foot setback to the southeast will remain unchanged. No windows are proposed on the shared party wall, along the internal lot line. As such, the addition will not unduly compromise the privacy of the adjacent residential neighbors.

Importantly, the Applicant has reached out to both of his adjacent neighbors regarding his proposal, and they have expressed their support for the addition.¹ The Applicant also informally briefed the ANC at their regularly scheduled April meeting. Although no action will be taken by

¹ At the time of this Application, the adjacent, attached property was in the process of being sold. The Applicant will reach out to his new neighbors once they move-in.

the ANC until after a BZA case number has been assigned, no issues were raised by the ANC Commissioners during the meeting.

(c) The addition, 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;

The addition will not substantially visually intrude upon the character, scale, and pattern of houses along the subject street frontage. As mentioned above, the rear addition will not be visible from Fulton Street. Furthermore, given the proposed rear yard setback and significant grade change (which slopes up from the alleyway, toward the dwelling), the rear addition, as viewed from the alleyway, will not substantially visually intrude upon the character scale and pattern of houses along the alley frontage. Architecturally, the proposed addition is in keeping with the style of the existing structure and will continue to be compatible with the surrounding neighborhood.

(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 to adjacent buildings and views from public ways;

The photographs and architectural perspectives submitted concurrently with this Statement demonstrate that the proposed addition is compatible with the surrounding area and will not have any adverse impacts on the adjacent property or surrounding neighborhood.

VII. Conclusion

For the reasons set forth above, we respectfully request the Board of Zoning Adjustment's approval of the requested Special Exception. The proposed Application will reinvest in the existing Property and allow the Applicant to remain in his current home. Importantly, the proposed addition will allow for needed, additional space to respond to the increased demands placed on one's personal residence as a result of COVID-19 and also allow the Applicant to better care for his aging relatives.

Respectfully submitted,



Patrick O'Neil



Elizabeth Rogers