

June 21, 2019

Board of Zoning Adjustment
Burden of Proof Statement

This statement is submitted on behalf of 3569 Warder LLC (the “Applicant”), owner of the property located at 3569 Warder ST NW in the RF-1 zone district. The property is located on Warder ST between Otis PL NW and Newton PL NW. The property currently has 1 existing structure, a single family semi-detached home.

The Applicant is planning to convert an existing single-family residence into multi-family apartment home. To do so, the Applicant is requesting a Special Exception under Subtitle U, Chapter 3, Section 320.2 and Subtitle C, Section 703.2.

320.2: Conversion of an existing residential building existing prior to May 12, 1958, to an apartment house shall be permitted as a special exception in an RF-1, RF-2, or RF-3 zone if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the following conditions:

The following are the provisions required for granting a Special Exception, in bold below each point is evidence of how the proposed project meets each requirement.

(a) The maximum height of the residential building and any additions thereto shall not exceed thirty-five feet (35 ft.), except that the Board of Zoning Adjustment may grant a special exception from this limit to a maximum height of forty feet (40 ft.) provided the additional five feet (5 ft.) is consistent with Subtitle U §§ 320.2(f) through 320.2(i);

Proposed structure to be 35’ in height.

(b) The fourth (4th) dwelling unit and every additional even number dwelling unit thereafter shall be subject to the requirements of Subtitle C, Chapter 10, Inclusionary Zoning, including the set aside requirement set forth at Subtitle C § 1003.6;

Project proposed a total of five (5) units, including one (1) unit to be developed pursuant to IZ regulations.

- (c) *There must be an existing residential building on the property at the time of filing an application for a building permit;*

There is an existing residential building on the property, circa 1908.

- (d) *There shall be a minimum of nine hundred square feet (900 sq. ft.) of land area per dwelling unit;*

Proposed lot area is 4500 SF, or 900 SF per unit.

- (e) *An addition shall not extend farther than ten feet (10 ft.) past the farthest rear wall of any adjoining principal residential building on any adjacent property;*

Proposed structure is not to extend further than 10' beyond the adjoining adjacent neighbor.

- (f) *Any addition, including a roof structure or penthouse, shall not block or impede the functioning of a chimney or other external vent compliant with any District of Columbia municipal code on an adjacent property. A chimney or other external vent must be existing and operative at the date of the building permit application for the addition;*

Adjacent structure to the northeast at 3567 Warder ST NW does have a functioning chimney. Applicant has acquired a chimney extension agreement to extend their chimney to allow for a 3rd story and maintain code compliance.

- (g) *Any addition, including a roof structure or penthouse, shall not significantly interfere with the operation of an existing solar energy system of at least 2kW on an adjacent property unless agreed to by the owner of the adjacent solar energy system. For the purposes of this paragraph the following quoted phrases shall have the associated meaning:-*

- (1) *“Significantly interfere” shall mean an impact caused solely by the addition that decreases the energy produced by the adjacent solar energy system by more than five percent (5%) on an annual basis, as demonstrated by a comparative solar shading study acceptable to the Zoning Administrator; and*
- (2) *“Existing solar energy system” shall mean a solar energy system that is, at the time the application for the building permit for the adjacent addition is officially*

accepted as complete by the Department of Consumer and Regulatory Affairs or an application for zoning relief or approval for the adjacent addition is officially accepted as complete by the Office of Zoning, either:

(A) Legally permitted, installed, and operating: or

(B) Authorized by an issued permit; provided that the permitted solar energy system is operative within six (6) months after the issuance of the solar energy system permit not including grid interconnection delays caused solely by a utility company connecting to the solar energy system;

There are not solar panels on the adjacent properties.

(h) A roof top architectural element original to the house such as cornices, porch roofs, a turret, tower, or dormers shall not be removed or significantly altered, including shifting its location, changing its shape or increasing its height, elevation, or size. For interior lots, not including through lots, the roof top architectural elements shall not include identified roof top architectural elements facing the structure's rear lot line. For all other lots, the roof top architectural elements shall include identified rooftop architectural elements on all sides of the structure;

The applicant is requesting a waiver from this provision pursuant to U-320.2(I) in order to remove and replace the existing porch roof with one resembling that which may have been found on this structure originally. The cornice on the principal structure will be retained and restored without alteration.

(i) Any addition shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:

(1) The light and air available to neighboring properties shall not be unduly affected;

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

(3) The conversion and any associated additions, 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 or alley;

The Proposed structure will not impede or affect adjacent properties.

- (j) *In demonstrating compliance with Subtitle U § 320.2(i) the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the conversion and any associated addition to adjacent buildings and views from public ways;*

The architectural plans, elevations, and 3D images represent the relationships between the proposed project and adjacent properties.

- (k) *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 or nearby properties, or to maintain the general character of a block;*

Proposed project will comply if required.

- (l) *The Board of Zoning Adjustment may modify or waive not more than three (3) of the requirements specified in Subtitle U §§ 320.2(e) through § 320.2(h) provided, that any modification or waiver granted pursuant to this section shall not be in conflict with Subtitle U § 320.2(i); and*

As noted above, the applicant is requesting that item 320.2(h) be waived.

- (m) *An apartment house in an RF-1, RF-2, or RF-3 zone, converted from a residential building prior to June 26, 2015, or converted pursuant to Subtitle A §§ 301.9, 301.10, or 301.11 shall be considered a conforming use and structure, but shall not be permitted to expand either structurally or through increasing the number of units, unless approved by the Board of Zoning Adjustment pursuant to Subtitle X, Chapter 9, and this section.*

Existing use is single family.

Additional relief is being requested per:

703.2 The Board of Zoning Adjustment may grant a full or partial reduction in number of required parking spaces, subject to the general special exception requirements of Subtitle X, and the applicant's demonstration of at least one (1) of the following:

The following are the provisions required for granting a Special Exception, in bold below each point is evidence of how the proposed project meets each requirement.

(a) Due to the physical constraints of the property, the required parking spaces cannot be provided either on the lot or within six hundred feet (600 ft.) of the lot in accordance with Subtitle C § 701.8;

The 5 units proposed require 3 parking spaces per Table C § 701.5. Because C § 712.3 requires 50% of the required spaces to be full size, the 25' lot is unable to accommodate the (2) Full Size and (1) Compact spaces required. We are seeking relief under C § 703.2 (a) to reduce the required parking to two (2) spaces so to be able to satisfy that requirement with (1) Full Size and (1) Compact parking space. Such relief would allow us to include an addition non-required Compact space on the property to offset the impact of the relief being granted.

Granting a special exception will allow for the applicant to convert the existing single family into a 3-unit multi-family structure. The surrounding area is comprised of single family and multi-family row houses. This conversion will have minimal effect on the light, air, privacy, and views of the adjacent properties. Significant noise and traffic are not expected to become a factor with the completion of the project.