

DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Applicant's Statement in Support of Special Exception Approval

Joyce Cowan

1436 S Street, NW; Square 207, Lot 49.

I. INTRODUCTION.

This Statement is submitted on behalf of Joyce Cowan (the "Applicant"), owner of the property located at 1436 S Street, NW (Square 207, Lot 49) (the "Subject Property"). The Subject Property is improved with a two-story, single-family principal dwelling unit (the "Building") and a one-story accessory building (the "Accessory Building"), currently used as a garage and a studio. The Applicant is proposing to construct a partial second story addition (the "Addition") on top of the existing Accessory Building and use the space as a second principal dwelling unit. The Addition will require the following areas of approval:

1. Special Exception Approval Pursuant to E § 5201 (Lot Occupancy, Accessory Building Footprint and Center Alley-line Setback, Extending a Non-Conforming Aspect)

- Lot Occupancy (E § 404.1): The Applicant is not proposing to increase the footprint of the principal Building nor the Accessory Building; however, the existing lot occupancy is 70%. Accordingly, the Applicant is requesting special exception approval pursuant to E § 5201.
- Accessory Building Footprint (E § 5003.1): An accessory structure is limited to a maximum footprint of 450 square feet. The Accessory Building has an existing footprint of 843 square feet. The proposed Addition has a footprint of

approximately 515 square feet. Accordingly, the Applicant is requesting special exception approval pursuant to E § 5201.

- Alley Center Line Setback (E § 5004.1): An accessory structure abutting an alley must be set back at least twelve feet (12 ft.) from the center line of the alley. The existing Accessory Building is setback 10 ft. from the center line of the alley—only 2 ft. shy of the requirement and the Addition will also be setback ten feet (10 ft.). Accordingly, the Applicant is requesting special exception approval pursuant to E § 5201.
- Extending a Non-Conforming Aspect of the Structure (C § 202.2): Through the Addition, the Applicant is increasing existing non-conforming aspects of the structure, including the lot occupancy, the accessory building footprint, and the center alley-line setback. Accordingly, the Applicant is requesting special exception approval pursuant to E § 5201.

2. Special Exception Approval Pursuant to U § 301.1(g) from the requirements of U § 301.1(c)(2).

Subtitle U § 301.1(c) permits, as a matter-of-right, a principal dwelling unit within an accessory building, subject to certain conditions. One of those conditions is that there be “no expansion or addition made to the accessory building to accommodate an apartment except as a special exception.” (U § 301.1(c)(2)). Subtitle U § 301.1(g) states that “any proposed expansion of an accessory building for residential purposes shall be permitted only as a special exception approval pursuant to Subtitle X, and shall be evaluated against the standards of this section.”

Accordingly, the Applicant is requesting special exception approval pursuant to U § 301.1(g) which evaluates the Addition under the general special exception requirements of Subtitle X.

II. JURISDICTION OF THE BOARD.

The Board has jurisdiction to grant the special exception approval requested pursuant to Subtitle E § 5201 from the lot occupancy requirements of E § 404.1; the accessory building footprint requirements of E § 5003.1; the alley center line setback requirement of E § 5004.1; and the prohibition against extending a nonconforming aspect of a structure of C § 202.2; and pursuant to U § 301.1(g) from the requirements of U § 301.1(c)(2).

III. BACKGROUND.

A. Description of the Property and Surrounding Area.

The Subject Property is located in the RF-2 Zone and in the Greater 14th Street Historic District. It is an interior rectangular lot measuring one hundred and forty feet (140 ft.) in length, nineteen-point-fifty-eight-feet (19.58 ft.) in width and 2,742 square feet in land area. The Subject Property is improved with a two-story, Building used as a single-family principal dwelling and an Accessory Building. The Accessory Building was constructed prior to 2013 and was renovated in 2012. Abutting the Subject Property to the east and west are other single-family dwellings. The principal building on the property to the east is significantly larger and longer than the Building. The property to the west is also improved with an accessory building. There are a variety of accessory buildings along the alley as shown in photographs included with the Application.

B. Proposed Project.

The Applicant is proposing to use a portion of the existing first floor of the Accessory Building as residential space and construct a partial second story Addition on top of the existing

Accessory Building. The Addition will only have a total footprint of 515 square feet and include one bedroom, a closet, and a bathroom. A portion of the existing first floor, which is currently used as studio space, will be converted to kitchen and living space. The Applicant is maintaining the existing parking space which currently occupies the other half of the first floor. The Applicant is not proposing to make any changes to the principal Building. While there will be new windows facing the alley and principal Building, there are no windows proposed on the sides of the Addition or existing first floor of Accessory Structure. The proposed height of the Accessory Building will be limited to just under twenty feet (20 ft.). The total height of the Accessory Building will only increase by six feet and three inches (6 ft. 3 in.).

IV. THE APPLICATION MEETS THE REQUIREMENTS FOR SPECIAL EXCEPTION APPROVAL.

A. Overview.

Pursuant to 11-X DCMR § 901.2 of the Zoning Regulations, the Board is authorized to grant special exception approval 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 approval pursuant to 11-E DCMR § 5201 (via E § 5007.1) 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 11-X DCMR § 901.2.

The Applicant is requesting approval pursuant to U-301.1(g) in order to expand an existing accessory building in order to accommodate a new dwelling unit. In order to obtain this approval, an Applicant must meet the general special exception requirements of 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-2 Zone which provides “for areas developed primarily with row dwellings, but within which there have been limited conversions of dwellings or other buildings into more than two (2) dwelling units.” (E § 100.2) The Applicant is proposing a second principal dwelling unit in accordance with the general provisions of Subtitle E § 100.2. Moreover, the regulations specifically permit special exception approval for the expansion of an accessory structure to accommodate a residential unit. Accordingly, the proposed Addition 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 not impact the light and air or privacy of the neighboring properties. The Addition will also not adversely affect the use of neighboring properties as residential properties as the Applicant is proposing a modest Addition which will accommodate only one additional principal dwelling unit. The Addition will only be 515 square

feet and results in a total increase in height of only six feet and three inches (6 ft. 3 in.). Two principal dwelling units are permitted as a matter-of-right in the RF-2 Zone and a one additional dwelling unit (with only one bedroom) will not result in a noticeable increase in noise or be otherwise disruptive to the neighboring properties.

C. Requirements of 11-E DCMR § 5201.

The proposal in this Application satisfies the requirements of 11-E 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 the light and air available to the neighboring properties. The Addition is limited to 515 square feet and will be located at the rear of the Subject Property abutting the alley. The Addition has been located towards the rear of the Subject Property in order to minimize potential impacts on light and air. There is some slight additional shadow created by the Addition, but it is limited to 3pm during the Fall, Spring, and Summer and limited to the rear yards and accessory buildings on the adjacent properties.

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

The privacy of use and enjoyment of any neighboring properties will not be unduly compromised by the proposed Addition. The Addition has been carefully designed to let light into the proposed unit without impacting the privacy of the adjacent properties. The Applicant is not proposing any windows on the east or west of the existing Accessory Building or Addition.

Any new windows are limited to the north and south facades and will face the principal Building and the alley, respectively. The total height of the Accessory Building will only increase by six feet and three inches (6 ft. 3 in.). The Subject Property has a fence which should also block views into the rear yards of the neighboring properties and increase privacy.

(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 the accessory structures on the alley. There are a variety of accessory structures along the alley, including an accessory building on the directly adjacent property to the west and six others to the east. The Addition is modest at 515 square feet and will only increase by six feet and three inches (6 ft. 3 in.). The Subject Property is located in the Greater 14th Street Historic District and is subject to review by HPRB. Accordingly, the Addition has been designed with historic guidelines in mind and should not impact the character, scale, or pattern of accessory structures along 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; and

The Applicant has provided plans, photographs, elevations and section drawings sufficient to represent the relationship of the proposed addition to the 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 up to a maximum of seventy percent (70%)

The lot occupancy of all new and existing structures will have a total lot occupancy of 70%.

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.

V. **CONCLUSION.**

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

Respectfully Submitted,

Martin P Sullivan

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Date: August 21, 2019