

DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Applicant's Statement of Jack Spicer Properties LLC

5104-5106 Jay Street, NE (Square 5176, Lots 369)

I. INTRODUCTION.

This Statement is submitted on behalf of Jack Spicer Properties LLC, owner of the property located at 5104-5106 Jay Street, NE (Square 5176, Lots 369) (the “**Subject Property**”). The Subject Property is currently improved¹ with a two-story, detached, single-family residential building (the “**Building**”). The Subject Property was originally two (2) separate lots that were combined into one (1) record lot in 1965. The Applicant is proposing to convert the lot into two (2) original record lots and to internally divide the existing Building into two separate, semi-detached, single-family dwellings (the “**Buildings**”), each on its own record lot (the “**Project**”). The Applicant is not proposing to construct any addition, only internal renovations and cosmetic updates to the exterior.

The Subject Property has 5,758 square feet of land area and a lot width of forty-five feet (45 ft.). The Subject Property is located in the R-2 Zone where, pursuant to D § 302.1, a new record lot for a semi-detached building must have a minimum lot width of thirty feet (30 ft.) and a minimum lot area of 3,000 square feet. The Applicant is proposing two (2) new record lots both with a width of twenty-two feet and six inches (22 ft. 6 in.) and measuring 2,868 square feet (5104 Jay Street) and 2,890 square feet in land area (5106 Jay Street). Accordingly, the

¹ The Applicant had already converted the building into two (2) separate buildings when it discovered that the lots for each proposed building did not meet the land area and lot width requirements to obtain a record lot. Accordingly, it is requesting relief as described herein. However, the Applicant is requesting relief *de novo* and the statement reflects that request. Photographs of the completed project have been included with the application.

Applicant is requesting variance relief from both the lot area and lot width requirements of D § 302.1 for new record lots in the R-2 Zone.

II. JURISDICTION OF THE BOARD.

The Board has jurisdiction to grant the variance relief requested pursuant to Subtitle X § 1000.1 from the minimum lot area and lot width requirements of D § 302.1.

III. BACKGROUND.

A. Description of the Property and Surrounding Area.

The Subject Property is zoned R-2 and consists of one (1) large record lot. It is currently improved with a two-story single-family detached dwelling; however, as demonstrated by the original subdivision plat of the square included with this Application as the "Original Subdivision Plat," the Subject Property was originally two (2) separate record lots (Lot 323 and Lot 324). The lots were combined in 1965 pursuant to the "Combined Lot Plat," also included with this Application.

Abutting the Subject Property to the east and west are semi-detached buildings. The entire 5100 block of Jay Street is made up of small rectangular lots measuring approximately twenty-two feet and six inches (22 ft. 6 in.) in lot width and between 2,630 sq. ft. and 2,990 sq. ft. in land area. The Applicant's proposed record lots will more closely match the size of the lots to the east and west, as well as other properties in the square. Based on the Atlas DC GIS map, provided in the Applicant's Photographs, it is the only lot in the entire square that has not been subdivided into two (2) smaller lots with a semi-detached building. Nearly every other property in a ~600-700-foot radius is configured as a semi-detached residence on a smaller lot. The Subject Property-- and one or two others-- are the only outliers. Abutting the Subject Property to the north and south are an improved public alley and Jay Street, respectively.

B. Proposed Project.

Pursuant to D § 300.5, the R-2 Zone is intended to provide for areas predominantly developed with semi-detached houses on moderately sized lots that also contain some detached dwellings. The Applicant is proposing to internally subdivide the existing Building into two (2) separate semi-detached single-family dwellings, each on its own record lot. The lots will be approximately the same width as nearly every other lot on the block—twenty-two feet and six inches (22 ft. and 6 in.). The western lot, 5104 Jay Street will have 2,868 square feet of land area and the eastern lot, 5106 Jay Street, will have 2,890 square feet of land area. The lots on this block of Jay Street range from 2,630 sq. ft. and 2,990 sq. ft. in land area, so the proposed lots will be on the larger end of the lots on this block.

The Applicant is proposing minor exterior renovations, but no addition. The proposed subdivision and internal division will produce two (2) semi-detached houses, each with a basement, a den, two (2) bedrooms, two (2) bathrooms, and a living and kitchen space. The original house has an inefficient basement and first floor layout. The existing small kitchen space and closed off dining and living spaces on the existing first floor will be converted to an open floor plan; allowing for kitchen, living and dining to be in one (1) area as is a more typical contemporary floor plan. The proposed Project will provide two (2), high-quality contemporary houses in place of an outdated detached residence that does not fit the character of the neighborhood.

IV. THE APPLICATION SATISFIES THE REQUIREMENTS FOR AREA VARIANCE RELIEF

The burden of proof for an area variance is well established. The Board of Zoning Adjustment may grant an area variance if it finds that “(1) there is an extraordinary or exceptional condition affecting the property; (2) practical difficulties will occur if the zoning

regulations are strictly enforced; and (3) the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan.” *Dupont Circle Citizens Ass'n v. D.C. Bd. of Zoning Adjustment*, No. 16-AA-932, 2018 WL 1748313, at *2 (D.C. Apr. 12, 2018); *Ait-Ghezala v. District of Columbia Bd. of Zoning Adjustment*, 148 A.3d 1211, 1216 (D.C. 2016) (quoting *Washington Canoe Club v. District of Columbia Zoning Comm'n*, 889 A.2d 995, 1000 (D.C. 2005)) (internal quotation marks omitted). As set forth below, the Applicant meets the three-part test for the requested variance for relief from lot width and lot area.

A. Extraordinary or Exceptional Condition affecting the Subject Property

To prove an extraordinary or exceptional condition, or uniqueness, the Applicant must show that the property has a peculiar physical aspect or other extraordinary situation or condition. *Monaco v. D.C. Board of Zoning Adjustment*, 407 A.25 1091, 1096 (D.C. 1979). Moreover, the unique or exceptional situation or condition may arise from a confluence of factors which affect a single property. *Gilmartin v. D.C. Board of Zoning Adjustment*, 579A.2nd 1164, 1168 (D.C. 1990).

The Subject Property is faced with an exceptional condition due to the size of the lot and the history of the lot. The Subject Property is approximately double the size of every other lot on this block and square. The 5100 block of Jay Street is made up of small rectangular lots measuring approximately twenty-two feet and six inches (22 ft. 6 in.) in lot width and between 2,630 sq. ft. and 2,990 sq. ft. in land area. The Applicant's proposed record lots are based on the original record lot and will more closely match the size of the lots on this block as well as other properties in the square. Based on the Atlas DC GIS map, provided in the Applicant's Photographs, it is the only lot in the entire square that has not been subdivided into two (2)

smaller lots with semi-detached buildings. Further, nearly every other property in a ~600-700-foot radius is configured as a semi-detached residence on a smaller lot. The Subject Property-- and one or two others-- are the only outliers.

The history of the Subject Property is also unique, as demonstrated by the Original Subdivision Plat the Subject Property. It was previously originally two (2) separate record lots (Lot 323 and Lot 324) which were combined in 1965. The Applicant is not requesting relief in order to do an addition, but only to revert the lot back to the original record lots, as would be consistent with the rest of the square and surrounding area.

B. Practical Difficulty if the Zoning Regulations were Strictly Enforced.

The second prong of the variance test is whether a strict application of the Zoning Regulations would result in a practical difficulty. It is well settled that the BZA may consider “a wide range of factors in determining whether there is an ‘unnecessary burden’ or ‘practical difficulty’... Increased expense and inconvenience to an applicant for a variance are among the factors for the BZA’s consideration.” Gilmartin, 579 A.2d at 1711. Other factors to be considered by the BZA include: “the severity of the variance(s) requested”; “the weight of the burden of strict compliance”; and “the effect the proposed variance(s) would have on the overall zone plan.” Thus, to demonstrate practical difficulty, an applicant must show that strict compliance with the regulations is burdensome; not impossible.

Without the relief, the lot could not be subdivided, and the house would remain as-is. Even with exterior updates and interior renovations, such a home would be out of character with the neighborhood and the R-2 Zone, would be much more difficult to sell, and would have to sell at a higher price, than the two (2) separate semi-detached dwellings proposed herein.

Construction costs being relatively equal, the Applicant could sell two (2) smaller homes for half the price of one (1) large home. Not only does this create additional housing in the District, but it also expands the pool of potential homebuyers because the purchase price of each semi-detached structure will inherently be lower than the price of a large detached structure. The proposed Project will provide two (2), high-quality semi-detached, single-family dwellings in place of an outdated detached residence that does not fit the character of the neighborhood.

Further, reverting to the original record lots will more closely match the size and width of the lots on this block of Jay Street and the surrounding area, as demonstrated by photographs included with this Application. The Applicant is not proposing an addition, only updates to the exterior and renovations to the interior. Prohibiting the Applicant from subdividing the lots and returning them to their original configuration would certainly create a practical difficulty for the Applicant as it could not internally subdivide the Building into two semi-detached structures. The existing Building would have to be marketed at a much higher price than the surrounding houses—due to it being nearly double the size—and would not fit with the existing character of the neighborhood.

C. Relief Can be Granted without Substantial Detriment to the Public Good and without Impairing the Intent, Purpose, and Integrity of the Zone Plan.

Relief can be granted without substantial detriment to the public good and without impairing the intent, purpose and integrity of the Zone Plan. The Applicant is not proposing an addition, only exterior updates and an internal renovation. The existing Building is relatively out of character with the adjacent buildings and surrounding area and the proposed Project will more closely match the character of the adjacent houses and other houses along Jay Street. As described above, the original house only has an inefficient basement and first floor layout. The

existing small kitchen space and closed off dining and living spaces on the existing first floor will be converted to an open floor plan; allowing for kitchen, living and dining to be in one (1) area as is a more typical contemporary floor plan. The proposed subdivision and internal division will produce two (2) semi-detached houses, each with a basement, a den, two (2) bedrooms, two (2) bathrooms, and a living and kitchen space.

Accordingly, relief can be granted without substantial detriment to the public good.

As discussed above, the Subject Property is nearly double the size of most properties in a ~600-700-foot radius and is one of the only ones improved with a detached single-family dwelling. Moreover, the Applicant is proposing to convert the lot back to its original configuration. Accordingly, the proposed Project and requested relief will not impair the intent, purpose, or integrity of the Zone Plan.

V. **CONCLUSION.**

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

Respectfully Submitted,

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