

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18201 of Ingomar Associates Inc., pursuant to 11 DCMR §§ 3103.2 and 3104.1, for variances from the rear yard requirement under § 933.2 and court requirements under § 935, and a special exception under § 2120.6 for relief from parking requirements for a historic resource, to allow a four-story rear addition to an existing building for commercial and residential occupancy, in the W-1 District at premises 1072 Thomas Jefferson Street, N.W. (Square 1198, Lots 821 and 822).¹

HEARING DATE: April 26, 2011
DECISION DATE: May 17, 2011

DECISION AND ORDER

This self-certified application was submitted January 25, 2011 by Ingomar Associates Inc., the owner of the property that is the subject of the application (“Applicant”). The application was filed pursuant to 11 DCMR § 3103.2 for area variances from the minimum rear yard requirement under § 933.2 and minimum court width requirements under § 935, as well as a special exception under § 2120.6 for the removal of three parking spaces, to allow construction of a rear addition to an existing historic building on a site zoned W-1 at 1072 Thomas Jefferson Street, N.W. (Square 1198, Lots 821 and 822). Following a public hearing, the Board of Zoning Adjustment (“Board” or “BZA”) voted 4-0-1 on May 17, 2011 to grant the application.

PRELIMINARY MATTERS

Notice of Application and Notice of Public Hearing. By memoranda dated February 3, 2011, the Office of Zoning sent notice of the application to the Office of Planning (“OP”); the District Department of Transportation; the Councilmember for Ward 2; Advisory Neighborhood Commission (“ANC”) 2E, the ANC for the area within which the subject property is located; and the single-member district ANC 2E05.

¹ The caption has been modified to reflect the relief finally requested by the Applicant. The application originally sought only a variance from the rear yard requirement of § 933, but was amended by the Applicant in light of changes to the project made in response to issues raised by the Old Georgetown Board. The additional areas of relief were presented to Advisory Neighborhood Commission 2E before its final review of the project on April 4, 2011, and were included in the notice posted on the property on April 7, 2011 in accordance with § 3113.14.

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A public hearing was scheduled for April 26, 2011. Pursuant to 11 DCMR § 3113.13, the Office of Zoning on February 18, 2011 mailed notice of the hearing to the Applicant, the owners of property within 200 feet of the subject property, and ANC 2E. Notice was published in the *D.C. Register* on April 1, 2011 (58 DCR 2826).

Requests for Party Status. In addition to the Applicant, ANC 2E was automatically a party in this proceeding. The Board granted a request for party status in opposition to the application from Graham Davidson, who represented the owner of the building at 1074-76 Thomas Jefferson Street, next to the proposed addition. The Board denied a request for party status submitted by Elliott Moulton on the ground that his request did not provide an explanation of how his interests “would likely be more significantly, distinctively, or uniquely affected in character or kind by the proposed zoning relief than those other persons in the general public,” as required by 11 DCMR § 3106.2(e)(5).

Applicant’s Case. The Applicant provided testimony and evidence from Outerbridge Horsey, an expert in architecture; and Julio Murillo and Donald Malnati, principals of the Murillo/Malnati Group (“MMG”), the contract purchaser of the subject property. The Applicant described its project as a new rear addition, containing commercial and residential space, to a smaller historic building devoted to commercial uses; the changes to its original proposal made in response to concerns of the Old Georgetown Board; and measures the Applicant intends to implement to minimize impacts to neighboring properties during the construction of the addition.

Government Reports. By report dated April 19, 2011 and through testimony at the public hearing, OP recommended approval of the requested variances from the rear yard and open court width requirements as well as a special exception under 11 DCMR § 2120.6 to reduce the number of parking spaces at the subject property from three to none. According to OP, the zoning relief “would not affect the light, air and privacy to adjacent properties” and the “location and scale of the proposed addition would not be intrusive on the historic character of the area and would be complementary to the historic resource to which it is being added.” (Exhibit 30.)

ANC Report. By letter dated April 12, 2011, ANC 2E indicated that, at a regular, duly noticed monthly public meeting held April 4, 2011, with a quorum present, the ANC voted unanimously to adopt a resolution indicating no objection to the Applicant’s proposed zoning relief, citing its objective “to preserve the existing structure facing Thomas Jefferson Street, NW and improvements to the rear of the property”.

Party in opposition. The party in opposition stated objections to the Applicant’s proposal especially with respect to its alleged detrimental impact on the general welfare of the surrounding community and the character of the area, especially the houses along Thomas Jefferson Street. According to the party in opposition, the Applicant had not justified construction of the addition without meeting the minimum required rear yard requirement, which was necessary in this case to provide light and air for the residences that will face the rear of the property and to provide a setback from the traffic, odors, and noise that occur in the alley. The

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party in opposition expressed concern that the Applicant's project will not remain a mixed-use development because the residential units will prove unappealing, so that the owner will eventually convert the residential space to commercial use.

Person in opposition. The Board heard testimony from a person in opposition to the application, who questioned the location of residential units at the rear of the addition, overlooking the alley, and expressed concern about increased demand for parking generated by the development.

FINDINGS OF FACT

The Subject Property and Surrounding Area

1. The subject property is a rectangular parcel located on the west side of Thomas Jefferson Street, N.W., south of M Street (Square 1198, Lots 821 and 822). The two lots comprising the subject property combine to form a parcel fronting on Thomas Jefferson Street (Lot 822) and abutting a public alley at the rear (Lot 821). The Applicant will combine the two lots into one as part of proposed project.
2. The subject property is approximately 28 feet wide and 105 feet deep, with an area of 2,933 square feet.
3. The property is improved with a building built in phases: a three-story frame structure at the east end facing Thomas Jefferson Street, built around 1810; and a two-story brick structure, built around 1896, located in the center of the property and adjoining the original building at the rear.
4. The site is located within the Georgetown Historic District, and the building, which is contributing to the historic district, is also designated an individual historic landmark as the Adams Mason House.
5. The Foundation for the Preservation of Historic Georgetown holds a "scenic, open space and architectural façade" easement over Lot 822. The purpose of the easement, which was granted in 1983 by a prior owner of the subject property, is to "assist in preserving and maintaining the premises and the architectural ensemble of the Old Georgetown Historic District." The easement requires approval by the Foundation of any changes to Lot 822. By letter dated December 2, 2010, the Foundation acknowledged its preliminary approval of the Applicant's concept plan conditioned on representations made by the Applicant that: (i) no addition would be made to the third floor of the existing building located on Lot 821, and that building would be left intact; (ii) the portion of the new building or addition constructed on Lot 822 will be no higher than four stories; (iii) MMG will obtain a variance from the Board from the rear yard requirement; (iv) the total square footage and height of the proposed building on Lot 822 will be within

limits allowed by the Zoning Regulations for the W-1 District; (v) given that the new building on Lot 822 will require the combination of Lots 821 and 822 into a single lot of record, MMG will agree to grant, and pay all recording costs for, a new easement covering the entire property, satisfactory to the Foundation; (vi) MMG will consider making a voluntary cash contribution to the Foundation to assist in advancing its mission and defraying its costs of enforcement; and (vii) MMG will provide the Foundation with copies of all drawings, proposals, or other documents furnished to any regulatory body having jurisdiction over the project.²

6. The neighborhood in the vicinity of the subject property is developed with a mixture of residential, office, retail, and hotel uses. Building heights in the area generally range from two to seven stories. The properties immediately to the north and south of the subject property are both developed with four-story buildings; the building to the north is used as commercial office space while the building to the south contains residences above ground-floor retail. Properties to the north along M Street are zoned C-2-A, while the next block of Thomas Jefferson Street to the south is zoned W-3 and properties to the east of 30th Street, a block east of the subject property, are located in the W-2 zone.
7. The alley abutting the subject property to the west is 19 feet wide and is used by both residential and commercial properties, including restaurants. The alley experiences a relatively high volume of traffic and frequent congestion, due in part to the frequent use of the alley for parking.
8. The subject property currently contains three parking spaces, located at grade at the rear of the lot and accessible from the public alley.
9. The subject property is served by public transportation, including Metrobus and Circulator routes on M Street as well as a bus service providing regular access to nearby Metrorail stations in Foggy Bottom, Dupont Circle, and Rosslyn.
10. A survey of nearby parking facilities undertaken by the Applicant identified several commercial parking garages in the vicinity of the subject property, primarily on Thomas Jefferson and M Streets. The garages offer monthly parking plans suitable for employees and residents at the subject property, and currently have spaces available for rent.

The Applicant's Project

11. The Applicant proposes to construct a four-story addition at the rear of the subject property. After renovation of the existing building and completion of the new rear addition, the development will contain commercial uses in all cellar and above-grade

² The Foundation's letter apparently reverses the lot numbers: under the Applicant's proposal, the existing building on Lot 822 will be renovated but not enlarged, while the new construction will occur at the rear of the parcel, on Lot 821.

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floors of the existing building and a portion of the new addition, with residential uses located on all four floors of the addition: a studio apartment on the ground floor level, two units on the second floor, and two duplexes located on the third and fourth floors, for a total of five units ranging in size from approximately 500 to 1,000 square feet.

12. The completed project will have a lot occupancy of 79.8 percent and a floor area ratio ("FAR") of 2.30 (1.3 residential and 1.0 commercial). The W-1 Zone permits a maximum lot occupancy of 80 percent and a maximum FAR of 2.5, not more than 1.0 of which may be used for other than residential purposes. (11 DCMR §§ 932.1, 931.2.)
13. The rear addition will occupy the area currently devoted to the rear yard, extending approximately 36 feet from a one-story connection to the existing building to the rear lot line and 28 feet from the northern to the southern property line. Because of the location of the new addition, the area on the southern edge of the lot, currently a side yard, will be converted to a court ("Court 1"). This court will be approximately 12.5 feet wide along the two-story portion of the building and approximately 6.5 feet wide along the three-story portion facing Thomas Jefferson Street. The addition will have a one-story bay, with two additional courts, each approximately 30 inches wide, on either side ("Courts 2A and 2B"); the bay will face the court created along the southern edge of the existing building.
14. Two additional courts will be created on the second story. One, approximately seven feet wide, will be located between the new residential units in the rear addition and commercial space in the existing building ("Court 3"). The other, approximately 6.5 feet wide, will be located between the southern edge of the original portion of the existing building and the neighboring building to the south ("Court 4").
15. The massing of the Applicant's project – a four-story addition behind two- and three-story historic structures – will be consistent with the size and massing characteristics of several nearby buildings that also feature larger rear additions behind smaller historic structures.
16. The project was reviewed by the Old Georgetown Board³ in a process that included participation by the Historic Preservation Office in OP. The Applicant revised the project

³ The Old Georgetown Board is the "Board of Review" referenced in § 3 of An Act: To regulate the height, exterior design, and construction of private and semipublic buildings in the Georgetown area of the National Capital. (popularly known as the "Old Georgetown Act," D.C. Official Code § 6-1203, which requires the Commission of Fine Arts to "appoint a committee of 3 architects, who shall serve as a Board of Review ... and who shall advise the Commission of Fine Arts, in writing, regarding designs and plans referred to it." Section 2 of that same Act, DC Official Code § 6-1202, requires the Mayor "before issuing any permit for the ... alteration ... of any building within said Georgetown district" to "refer the plans to the ... Commission of Fine Arts for a report". The Commission is to inform the Mayor of its recommendations," including such changes as ... are necessary and desirable to preserve the historic value" of the District and the Mayor "shall take such actions as in his judgment are right and proper in the circumstances."

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in response to comments by the Old Georgetown Board; some of the revisions created a need for additional zoning relief with respect to courts and parking.

17. A rear yard is generally required for a residential building in the W-1 District. (*See*, 11 DCMR § 933.1.) When the residential use begins at grade – as in the case of the Applicant’s project – the minimum depth of the rear yard must be three inches per foot of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof, but not less than 12 feet. 11 DCMR § 933.2.) The required minimum rear yard for the proposed rear addition, which will be 44 feet high, is 12 feet. The Applicant proposes to construct the addition to the rear lot line, thus providing no rear yard.
18. In the case of a residential building in the W-1 District, where an open court is provided, its width must be at least four inches per foot of height, or not less than 10 feet. In the case of other structures in the W-1 Zone, the minimum width of an open court is 2.5 inches per foot of height, or not less than six feet. (11 DCMR § 935.1.) The Applicant is proposing to provide open courts that will range in width from approximately 30 inches to 12.5 feet; only a portion of one court will provide the minimum required width.
19. Because the building was constructed prior to May 12, 1958, its present parking requirement is zero spaces. Ordinarily, additional parking is required when an addition increases the intensity of use of such a building by more than 25%. (11 DCMR §§ 2100.6 and 2100.7.) The building, however, receives a credit against this additional amount equal to the parking requirements that would have applied as of May 12, 1958. Not taking that credit into account, the additional minimum parking requirement for the Applicant’s project under § 2101.1, would be three spaces (one space for every three residential units and one space for every 1,800 square feet of office use in excess of 2,000 square feet). However, in the case of an addition or change of use in a historic resource,⁴ off-street parking is required only when the gross floor area of the historic resource will be increased by at least 50% and the parking requirement attributable to the increase in gross floor area is at least four parking spaces. (*See*, 11 DCMR § 2120.3.) Since the additional parking requirement for the subject property would be three spaces, the Applicant’s project is not required under the Zoning Regulations to provide parking.
20. Nevertheless, the Zoning Administrator has advised the Applicant that the removal of non-required parking spaces from a historic resource requires special exception relief

⁴ The building on the subject property meets the definition of a “historic resource” set forth in § 2120.2 as “a building or structure listed in the District of Columbia Inventory of Historic Sites or a building or structure certified in writing by the State Historic Preservation Officer as contributing to the character of the historic district in which it is located.”

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under 11 DCMR § 2120.6. The Applicant has chosen to accept this ruling and requested the special exception relief.⁵

Harmony with Zoning

21. The subject property is zoned W-1. The purpose of the Waterfront (W) Districts is “to encourage a diversity of compatible land uses at various densities, including combinations of residential, offices, retail, recreational, arts and cultural, and other miscellaneous uses.” (11 DCMR § 900.4.) The W-1 Zone permits a moderate height and density, and is “intended to be relatively self-contained by supplying a variety of housing, service, employment, and recreational opportunities in one location,” so that an area is allowed “to serve many different needs of a single population and to thereby reduce the amount of vehicular traffic generated by the uses in the [W] districts.” (11 DCMR §§ 900.3, 900.5.)
22. The Applicant’s project will conform to the applicable zoning requirements with respect to building height, bulk, and use.

CONCLUSIONS OF LAW AND OPINION

The Applicant seeks area variances from the minimum rear yard requirement under § 933.2 and minimum court width requirements under § 935 to allow construction of a rear addition to an existing building in the W-1 District at 1072 Thomas Jefferson Street, N.W. (Square 1198, Lots 821 and 822). The Board is authorized under § 8 of the Zoning Act to grant variance relief where, “by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the original adoption of the regulations or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property,” the strict application of the Zoning Regulations would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, provided that relief can be granted without substantial detriment to the public good and

⁵ The Board notes that ordinarily the removal of non-required spaces is governed by 11 DCMR § 2100.10, which provides:

2100.10 In the case of a building or structure for which the Zoning Regulations now require more parking spaces than were required when the building or structure was built, the following shall be required:

- (a) If the existing number of parking spaces now provided is less than or equal to the minimum number of parking spaces now required by this chapter, the number of parking spaces cannot be reduced; and
- (b) If the existing number of parking spaces now provided is more than the minimum number of parking spaces now required by this chapter, the number of parking spaces cannot be reduced below the minimum number of parking spaces required by this chapter.

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without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. (See, 11 DCMR § 3103.2.)

As the Applicant notes, the District of Columbia Court of Appeals has held that “an exceptional or extraordinary situation or condition” may encompass the buildings on a property, not merely the land itself, and may arise due to a “confluence of factors.” See *Clerics of St. Viator v. District of Columbia Bd. of Zoning Adjustment*, 320 A.2d 291 (D.C. 1974); *Gilmartin v. District of Columbia Bd. of Zoning Adjustment*, 579 A.2d 1164, 1168 (D.C. 1990). Based upon the record, the Board concludes that the subject property is affected by an exceptional situation or condition due to a confluence of factors, and that those factors affect the Applicant’s ability to develop the property in a manner consistent with matter-of-right zoning requirements in the W-1 District.⁶ The subject property is improved with a relatively small building, and the Applicant’s ability to enlarge the structure has been constrained by recommendations of the Old Georgetown Board and by conditions imposed by the scenic, open space, and architectural façade easement created by a prior owner of the property. See, e.g., *Gilmartin*, 579 A.2d at 1167 (BZA’s finding of uniqueness based on easements was upheld where property differed from other properties due to specific easements crossing in particular fashion in relation to improvements so as to preclude use of part of the property for parking, in effect making property’s topography unique); *Monaco v. District of Columbia Bd. of Zoning Adjustment*, 407 A.2d 1091, 1099 (D.C. 1979) (restrictions imposed by covenant may be considered as an extraordinary condition of a particular piece of property, since they effectively restrict design, height, and use); *Capitol Hill Restoration Society v. District of Columbia Zoning Comm’n*, 380 A.2d 174, 185 (D.C. 1977) (existence of lawful private restrictions on land use is an actuality properly considered in zoning decisions). Due to the easement and the concerns of the Old Georgetown Board, the Applicant designed an addition that will be set back to the rear of the lot. The proposed massing will minimize the appearance of the addition from Thomas Jefferson Street, thereby maintaining the historic low-scale character of the street. The setback will also avoid obstructing some at-risk windows located in the property to the north.

Also in consideration of the easement and the comments of the Old Georgetown Board, the project was designed to maintain much of the existing open space located at the southern edge of

⁶ The Board was not persuaded by the Applicant’s testimony that the property is subject to an exceptional situation due solely to its location in a historic district and its status as a contributing building and an individually designated historic landmark. Such a contention was expressly rejected by the District of Columbia Court of Appeals:

The inclusion of intervenor's property in the Capitol Hill Historic District is not a condition which uniquely affects the lot at issue. If this fact were sufficient to justify a finding of uniqueness, then each and every parcel of land within the Capitol Hill Historic District would be entitled to a variance on this basis.

Capitol Hill Restoration Society, Inc. v. District of Columbia Bd. of Zoning Adjustment, 534 A.2d 939, 942 (D.C. 1987). The District’s historic preservation law does not prohibit alterations to landmarks or contributing buildings, but only requires that the Mayor find that any such addition is consistent with applicable principles before issuing a building permit. (See D.C. Official Code § 6-1105.) However, when, as if in this instance, an entity charged with historic preservation review recommends a limitation on development, the Board has found that an exceptional condition exists.

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the property, thereby converting a nonconforming side yard into several open courts. The Applicant is unable to enlarge the subject property to create additional width for the courts created in the former side yard, or to increase the widths of the other courts without unduly decreasing the size of the new addition. Under the Zoning Regulations, the open area could have been occupied by an addition, so as to eliminate the nonconforming side yard and avoid creating nonconforming courts, but the Applicant was required to maintain much of the area as open space to satisfy requirements of the Old Georgetown Board and the easement holder.

The Board further concludes that strict compliance with the Zoning Regulations would create practical difficulty in constructing the project as a result of the exceptional circumstances related to the construction of a rear addition compatible with the requirements of the easement and concerns of the Old Georgetown Board. Under the circumstances, strict compliance with the Zoning Regulations would limit the size of the rear addition such that the resulting space would be too small to house marketable residential units or to comprise a viable project. The Applicant demonstrated that that compliance with the rear yard requirement would require a 40-percent reduction in the size of the addition, thereby eliminating three of the planned five dwelling units and diminishing the Applicant's ability to create residences large enough to be marketable.

The requested variances can be granted without causing substantial detriment to the public good and without impairing the intent, purpose, and integrity of the zone plan. The project will add five dwelling units to an otherwise commercial development, consistent with the purpose of the W Zone to encourage a diversity of compatible land uses at various densities, including combinations of residential and office uses.⁷ The Applicant's project will comply with zoning requirements with respect to FAR, lot occupancy, height, and use; variance relief is needed only to accommodate the placement of the addition at the rear of the lot, as necessitated by the easement and the concerns of the Old Georgetown Board. Because of the project's massing, the addition will have only a limited effect on the historic streetscape of the subject property, while the alley abutting the rear of the property will ensure that the rear addition will not unduly affect the provision of light and air to nearby properties.

The Applicant also requests a special exception under § 2120.6 from the parking requirement for an addition to a historic structure. The Board is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2) (2001) to grant special exceptions, as provided in the Zoning Regulations, 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

⁷ The Board was not persuaded by the testimony of the party in opposition that the owner of the subject property will eventually convert the residential space to commercial use because the apartments will inevitably prove unmarketable. The W-1 Zone limits non-residential FAR to not more than 1.0 of the maximum 2.5. (11 DCMR § 931.2.) After the addition is completed, the subject property will have a FAR of 2.3, comprising 1.3 devoted to residential use and the permitted maximum of 1.0 FAR of commercial space. The property owner will not be permitted to convert the apartments to commercial space, thereby increasing the nonresidential FAR at the subject property, without first obtaining a use variance.

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affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map, subject to specific conditions. (See 11 DCMR § 3104.1.)

Pursuant to § 2120.3, a historic resource and any addition to a historic resource are exempt from the requirement of § 2100.4 to provide additional parking as a result of a change of use and from the requirement of § 2100.6 to provide additional parking as a result of an increase of intensity of use, except that parking is required for any addition where the gross floor area of the historic resource is being increased by 50% or more, and the parking requirement attributable to the increase in gross floor area is at least four spaces. Pursuant to § 2120.6, the Board may grant relief from all or part of the parking requirements of § 2120 if the owner of the property demonstrates that, as a result of the nature or location of the historic resource, providing the required parking would result in significant architectural or structural difficulty in maintaining the historic integrity and appearance of the historic resource. The Board may grant only the relief needed to alleviate the difficulty proved by the owner, who must also demonstrate compliance with the general special exception standard set forth in § 3104 and address certain criteria specified in the Zoning Regulations.⁸ In this case, the subject property does not have a parking requirement under § 2120; however, according to the Applicant, the Zoning Administrator has interpreted that section to require special exception approval for the removal of existing parking spaces at a historic resource, even if those spaces are not required parking spaces under the Zoning Regulations.

The Board concludes that the requested special exception can be granted consistent with the criteria specified in § 2120.6. The Board credits the Applicant's testimony that the existing parking spaces will be removed so as to provide residential units of adequate size in an addition designed so that its location and massing will satisfy the requirements of the easement and the Old Georgetown Board intended to maintain the historic integrity and appearance of the historic resource. The improvements at the subject property, including the planned addition, will be relatively small, so the redevelopment of the historic resource will not likely result in a significant number of people using the building at one time or add significantly to traffic congestion in the vicinity. The Applicant testified that removal of the parking spaces would likely decrease traffic congestion in the alley, which will no longer be used to access parking spaces at the subject property, and that parking on site would not be needed or marketable for the planned dwelling units. The subject property is located near several commercial parking facilities, and is also well-served by public transportation. Based on the findings of fact and for the reasons discussed above, the Board concludes that the requested special exception will be in

⁸ These criteria are: (a) maximum number of students, employees, guests, customers, or clients who can reasonably be expected to use the proposed building or structure at one time; (b) amount of traffic congestion existing and/or that the redevelopment of the historic resource can reasonably be expected to add to the neighborhood; (c) quantity of existing public, commercial, or private parking, other than curb parking, on the property or in the neighborhood that can reasonably be expected to be available when the redevelopment is complete; and (d) proximity to public transportation, particularly Metrorail stations, and availability of either public transportation service in the area, or a ride sharing program approved by the District Department of Transportation. (11 DCMR § 2120.6(a)-(d).)

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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.

Section 13(b) (d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10 (d)(3)(A)) requires that the Board's written orders give "great weight" to the issues and concerns raised in the recommendations of the affected ANC. In this case, ANC 2E indicated no objection to the three areas of zoning relief requested by the Applicant, citing the ANC's objective to preserve the existing structure facing Thomas Jefferson Street, N.W. and improvements to the rear of the property. The Board's grant of the Application will allow for the preservation desired.

The Board is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code § 6-623.04) to give great weight to OP recommendations. The Board concurs with the OP's recommendation that the zoning relief should be granted,

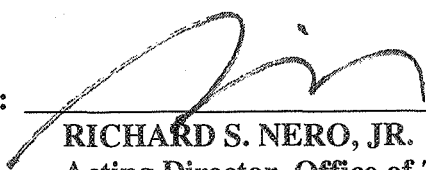
Based on the findings of fact, and having given great weight to the recommendations of the Office of Planning and to the issues and concerns of ANC 2E, the Board concludes that the requested zoning relief can be approved so that the Applicant's project is not likely to become objectionable to adjoining and nearby property. For the reasons stated above, the Board concludes that the Applicant has satisfied the requirements for area variances from the minimum rear yard requirement under § 933.2 and minimum court width requirements under § 935, as well as a special exception under § 2120.6 for the removal of three parking spaces, to allow construction of a rear addition, to be devoted to commercial and residential use, to an existing historic building used as commercial office space on a site zoned W-1 at 1072 Thomas Jefferson Street, N.W. (Square 1198, Lots 821 and 822). Accordingly, it is hereby **ORDERED** that the application is **GRANTED**, pursuant to Exhibit 28B (Revised Plans).

VOTE: 4-0-1 (Jeffrey L. Hinkle, Lloyd J. Jordan, Nicole C. Sorg, and Anthony J. Hood
(by absentee vote) to Approve; Meridith H. Moldenhauer not present,
not voting)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of Board members has authorized the issuance of this order.

ATTESTED BY: _____


RICHARD S. NERO, JR.

Acting Director, Office of Zoning

FINAL DATE OF ORDER: SEP 29 2011

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



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As Director of the Office of Zoning, I hereby certify and attest that on September 29, 2011, a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail or delivered by electronic mail in the case of those ANC's and SMDs that have opted to receive notices thusly, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

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ATTESTED BY:



RICHARD S. NERO, JR.
Acting Director, Office of Zoning