

**BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA**

STATEMENT OF REASONS IN SUPPORT OF AN APPLICATION FOR AN
AREA VARIANCE FROM THE REQUIREMENTS OF SECTION 404.1 OF THE ZONING REGULATIONS
TO ALLOW THE CONSTRUCTION OF AN ADDITION TO A NEIGHBORHOOD LIBRARY AT
3160 SIXTEENTH STREET NW (SQUARE 2595, LOT 830) (THE "PROPERTY")

This Statement of Reasons is submitted on behalf of the applicant, District of Columbia Public Library (the "Applicant" or "Library"), the owner of the Property.

THE PROPERTY & SURROUNDING NEIGHBORHOOD

Property Description & Current Use. The Property is located on the southwest corner of the intersection of Sixteenth and Lamont Streets, NW. The Property was built in 1925 as an original Carnegie Library, and is located within the Mount Pleasant Historic District. The Property contains 16,576 square feet of land area and is improved with a multi-story building (the "Building") which has been used since its construction as a neighborhood library. The Property is located within the R-5-D Zone District.

The existing Building contains approximately 18,012 square feet of gross floor area, and currently occupies approximately thirty-seven percent (37%) of its lot. As stated above, the Property consists of a corner lot located at the intersection of two streets, Lamont and Sixteenth Streets, N.W., and the entrance to the Building is oriented directly toward the apex of the obtuse angle created at the intersection of these streets.

The Surrounding Neighborhood. The Property is located in the Mt. Pleasant Neighborhood in Northwest. The square in which the Property is located is irregularly shaped and bounded by Mt. Pleasant Street on the west, Lamont Street on the north, Sixteenth Street on the east, and Irving Street on the south. The square is characterized by a mixture of building types and heights; predominately mid-rise apartment buildings are found along 16th Street, a

mixture of commercial and apartment buildings are located along Mt. Pleasant Street, and there are a small group of row houses along Lamont. There is also a high-rise apartment building located on the north side of Lamont Street, across from the Property.

Zoning. The Property is classified in the R-5-D Zone District. The R-5 Districts are General Residence Districts which permit flexibility of design by all types of urban residential development if they conform to the height, density, and area requirements established for these districts under the Zoning Regulations. The R-5 Districts also permit the construction of those institutional and semi-public buildings that would be compatible with adjoining residential uses and that are excluded from the more restrictive Residence Districts. 11 D.C.M.R. § 350.1.

Matter-of-right uses in the R-5-D Zone District include high-rise apartment buildings (maximum height 90 feet) and other uses permitted as a matter of right in the other R Zone Districts, such as churches, public schools, libraries, row dwellings, and mid-rise apartment buildings, as well as those uses permitted as a matter of right in the less-restrictive residential zones. 11 D.C.M.R. §§ 300.2, 201.1.

PROPOSED USE OF THE PROPERTY

The Applicant is in the process of a comprehensive renovation of the Building, which includes adding a new, approximately 6,000 square-foot addition (the “Addition”). The renovation is part of a comprehensive Capital Projects program being undertaken by the Library system-wide,¹ and is intended to modernize the entire existing facility. The Addition is necessary to provide new features not previously offered in this location, such as a significant number of computers for public use and a community meeting room. The new library has been designed to

¹ The Board may recall that the Library has bought several applications forward relating to the Capital Projects program. *See* BZA Orders 17239 (Watha T. Daniel/Shaw Library), 17840 (Benning Library), 17973 (Washington Highlands Library), 17993 (Tenley/Friendship Library), and Zoning Commission Order No. 09-17 (Francis Gregory Library).

be a destination in the community with services and places for learning and meeting that are welcoming and comfortable for the whole community and individual constituencies within that community to use.

The Library has engaged renowned architects CORE Architecture / Design to design the comprehensive interior renovation and Addition. The proposed Addition is a two-and-a-half story, modern glass structure designed to complement the existing historic Building. The design of the Addition has been approved by the U.S. Commission of Fine Arts.

Due to the irregular shape of the Property and the design challenges created by adding on to a significant historic building in a manner that must not interfere with the character of the existing Building, the Library and its consultants conferred with the Zoning Administrator for the District of Columbia early in the design phase. After reviewing the plans, the Zoning Administrator confirmed that the proposed Addition met all applicable requirements of the Zoning Regulations. Based on that confirmation, the Library applied for a building permit, which was approved, and commenced construction.

ANC 1D appealed the issuance of the building permit, alleging, *inter alia*, that the Zoning Administrator erred in determining that the proposed Addition complied with the requirements for a rear yard. The BZA held hearings on that appeal (BZA Appeal No. 18152) on January 11, 2011, February 1, 2011 and March 1, 2011, and scheduled a decision meeting for April 5, 2011. At the decision meeting, the Board was unable to reach a majority vote to either approve or deny ANC 1D's appeal, and therefore rescheduled its decision to June 7, 2011, at which time a new Board member will be seated and will have had the opportunity to read the record in Case No. 18152. The Applicant strongly believes that the Zoning Administrator's decision to issue the building permit authorizing the Addition was correct and based on a sound

interpretation of the Zoning Regulations; however, in an abundance of caution, and because construction has been underway for some time, the Library feels it is prudent to request that, in the event the Board grants the appeal in Case No. 18152, overturning the Zoning Administrator's decision and effectively revoking the building permit, the Board grant a variance from the rear yard requirements to allow the continuation of construction without delay. In the event the Board grants the Appeal in Case No. 18152 and thus determines that a variance is required in order to construct the Addition as proposed under Building Permit No. B1001861, the Applicant hereby requests a rear yard variance and submits that, for the following reasons, it satisfies the requirements for such variance:

VARIANCE CRITERIA

The Board is empowered to grant an area variance where it finds three conditions:

- (1) The property is unique because, *inter alia*, of its size, shape, or other extraordinary or exceptional situation or condition relating to the property;
- (2) The owner would encounter practical difficulties if the zoning regulations were strictly applied; and
- (3) The variance would not cause substantial detriment to the public good and would not substantially impair the intent, purpose and integrity of the zoning plan.

Roumel v. District of Columbia Bd. of Zoning, 417 A.2d 405, 408 (D.C. 1980); *see also Association For The Preservation Of 1700 Block Of N Street, N.W. v. Bd. of Zoning Adjustment*, 384 A.2d 674, 678 (D.C. 1978)(the applicant must demonstrate that compliance with the area restriction is unduly burdensome and the practical difficulties are unique to the property). The

library is a public service use, and as such, is subject to somewhat reduced scrutiny in analyzing the requirements for variance. *BZA Case No. 17973*, citing *National Black Child Development Inst., Inc. v. D.C. Bd. Of Zoning Adjustment*, 483 A2d 687, 690 (D.C. 1984). Characterization of a use a public service may also be significant in determining whether the requisite “exceptional situation or condition” exists. *Monaco v. DC Bd. of Zoning Adjustment*, 407 A2d 1092, 1099 (D.C. 1979). A public service entity requesting an area variance must demonstrate that its design constitutes an institutional necessity, and how its features result in the need for the variance sought. *Draude v. D.C. Bd. Of Zoning Adjustment*, 527 A2d 1242, 1256 (D.C. 1987).

Uniqueness. The practical difficulties in complying with the Zoning Regulations arise from a confluence of factors uniquely affecting this Property; most notably, the odd shape of the lot, the historic designation of the building, the orientation of the building entrance at the apex of an obtuse intersection, and the encroachment of an adjacent building.

The lot is roughly a pentagon, with three corners at right angles, and the other two corners at obtuse angles. The Building is constructed along the street line at Lamont and Sixteenth, and its entrance is oriented directly at the apex of the intersection of these two streets. Because of the four additional corners on the property and the strange angles of these corners, the Property lacks a regularly-shaped rear yard that can easily meet the requirements for minimum rear yard depth under the Regulations.

The main structure, a superb Beaux Arts design, is a contributing building in the Mt. Pleasant Historic District, which also contributes to the uniqueness of the site and limits the types of structural alterations and additions that may be made to the Property. In addition, because the Building is owned and operated by the District of Columbia, the Property is subject to review by the U.S. Commission of Fine Arts under the Shipstead-Luce Act. (A6 Stat. 366, as amended)

Thus both federal and local preservation guidelines must be applied when considering any exterior alteration to the Building. The Library's program for Mt. Pleasant, and in fact all other District of Columbia Public neighborhood libraries, requires a meeting room for 100 people. Existing meeting room and public library are in nearly constant use, and as part of the library planning process for each capital project the Library has undertaken, the feedback received from the community included an overwhelming desire for better public meeting spaces within each new library building, including Mount Pleasant. The new meeting space, appropriately sized for 100 persons, is therefore institutionally necessary.

Finally, an adjacent building is encroaching on the Library's Property, further limiting the land area available for an addition to the existing Building.

This confluence of various factors, including the ambiguity over which part of the lot is to be considered the "rear yard," for purposes of meeting the applicable minimum rear yard depth, constitute unique or extraordinary conditions inherent in the Property, meeting the first prong of the three-part test for an area variance. *Gilmartin v. District of Columbia Bd. of Zoning Adjustment*, 579 A.2d 1164, 1167 (D.C. 1990).

Practical Difficulty. The aforementioned confluence of factors creates serious practical difficulties in complying strictly with the rear yard requirements under the Zoning Regulations.

11 DCMR § 404.1 requires a minimum rear yard depth of 15 feet. In order to understand fully how this requirement impacts an irregularly-shaped lot such as the Property, it is helpful to review the definitions of "rear yard," "rear yard depth," and "corner lot." A "rear yard" is defined as "yard between the rear line of a building or other structures and the rear lot line." 11 DCMR § 199.1. "Yard, rear, depth of" is further defined as "the mean horizontal distance between the rear line of a building and the rear lot line." *Id.* The term "rear" is not specifically

defined in the Zoning Regulations, however, *Webster's Unabridged Dictionary* defines “rear” as “the back part of something...as the part of something located *opposite its front* (the rear of a house)” (emphasis added). In the case of a five-sided lot, with the Building oriented toward a corner, the rear yard is thus the side opposite the front side.

The Property, however, fronts on more than one street. In fact, the entrance to the building is located at the apex an obtuse angle formed by the intersection of Lamont and 16th Streets. As the Property fronts on two or more streets which form at an angle between 45° and 135°, the Property is considered a “corner lot.” 11 DCMR § 199.1. The definition of “corner lot” clearly states that “when a lot abuts upon more than one (1) street, the owner shall have the option of selecting which is to be the front for purposes of determining street frontage.” *Id.* If the corner of 16th and Lamont fell at exactly a 90-degree angle, it would be very clear as to which part of the Property constitutes the rear yard, since the Library, as the owner, would have the option of choosing Lamont Street (the northern border and longer street frontage) as the front, thereby confirming the southern border of the Property as the rear lot line. Notwithstanding the fact that the Zoning Administrator concurred with this interpretation, in considering the Appeal in Case No. 18152, at least two members of the Board of Zoning Adjustment did not agree. Based on the discussion at the April 5, 2011 decision meeting, the Board members who disagreed with the Zoning Administrator indicated that they felt the western boundary of the lot is the rear lot line. If this is found to be the case, due to the constraints of design relating to the historic significance of the Building discussed further below, the Library will not be able to expand at all.

The Library initially designed the Addition so that it would be located along the north boundary of the Property, along Lamont Street, with the handicapped ramp necessary to comply

with applicable accessibility (Building Code) requirements extending along the 16th Street side. Historic Mt. Pleasant and the ANC objected based on the impact the new, modern ramp would have on the primary Building façade, and insisted on a redesign. The Commission of Fine Arts also objected to the impact of that plan on the historic character of the main building. Under the aegis of Councilmember Jim Graham, the Library then engaged in a nine-month redesign process. The current location and configuration of the addition emerged as the only feasible option.

First, due to the narrow width of the open spaces on either end of the existing Building, it was impossible to accommodate the Library's institutional program requirement of a space for 100 people within the existing fabric of the Building. The current plan requires only the demolition of the small projecting room on the rear and the elongation of an existing window on the upper floor to provide the connection to the second level of the addition. Even in the initial location along the north side of the Building, which is substantially wider than the location of the proposed Addition, creating sufficient space for the meeting room would have required substantial demolition of historic building fabric. The backside of the building, where the "sunroom" promontory had been located, was the only feasible location.

Second, the Beaux Arts design of the historic building is highly symmetrical. In order to accommodate the addition in a location other than the area determined to be the required rear yard, the addition would have had to be on one side or the other, destroying the symmetry. An addition to either wing of the Building along the street line was rejected by the ANC, Historic Mt. Pleasant and the Commission of Fine Arts.

Third and finally, due to the substantial nature of the renovation, the Building Code requires the construction of a ramp to allow handicap accessible access to the Building. The

length of the ramp is dictated by the height of the first floor of the Building and the Americans with Disabilities Act restrictions on the severity of the slope of any such ramp. Given the irregular shape of the lot and the limited area available for any addition, it is not possible to integrate the design for the accessible ramp into the same space intended to provide the meeting room. Once the CFA and the community organizations disapproved of the location of the ramp on one or the other side of the front steps (the primary Building façade), there was only one possibility: the north side of the building, which is wider than the southern open space. This placement further restricted the potential area for expansion of the Building to the area where it is now shown, arguably within the required rear yard setback. These design constraints are institutional requirements and necessitate the need for variance. *Draude, supra*.

No Adverse Impact. The requested relief can be granted without harming the public good or impairing the intent, purpose, and integrity of the zone plan. The purpose of the rear yard regulation is to provide light, air, and privacy to the residents of the proposed structure and the neighboring property, and along with the lot occupancy restrictions, to provide opportunities for recreation. As is evident from the aerial photo attached as Exhibit H, there is quite a bit of open space in the immediate vicinity of the Property, with a sizeable reservation on the 16th Street side. Also, the library, with its various programs and access to computers and the internet, is a community facility which serves a recreational, in addition to an educational, purpose.

It should be noted that the proposed addition is modest in scale, only 2.5 stories, with the bulk of the neighboring buildings at 3.5 to 5 stories. As is evident from the aerial photo, and depicted on the map found at Exhibit G, attached, virtually all of the neighboring buildings are setback from their property lines. The proposed Addition will have no impact on the availability of light and air to these properties. The only neighboring residential property that actually has no

setback is the 6.5 story building to the south of the Library on 16th (Lot 829), which has windows directly on the shared property line. *See Exhibit F*, attached. The Library has designed the Addition to maintain a fifteen foot yard along on that side of the Library, which will also benefit the building on lot 634, as the rear of that building will adjoin the yard as well, at the northeast corner of Lot 829.

One other building which immediately abuts the property line; in fact, the building on Lot 189 encroaches into the Library property. *See Exhibit J*, attached. The proposed design will not have an adverse impact on light and air for that property, as the handicapped ramp is located adjacent to the property line on that side of the building, and the windows adjacent to the Library in that building are angled to provide views south along the rear of the Mt. Pleasant Street buildings and north across the handicapped ramp and Lamont Street.

The appellants in the previous case, 18152, objected to what they regarded as a fire safety issue related to the proposed configuration of the Building and its Addition. It is important to note that due to the comprehensive nature of the proposed renovations to the Building, a sprinkler system is required to be installed to meet the requirements of the Existing Building Code. Likewise, any such renovation of adjacent properties will, under today's Existing Building Code, require installation of full sprinkler systems, enhancing the life safety features of all buildings in the square over time. There is no requirement contained within the Construction Codes for the District of Columbia that fire lanes be included on private properties. In fact, on numerous occasions this Board has reviewed reports or heard testimony from the District of Columbia Department of Fire and Emergency Services ("DC FEMS") stating unequivocally that DC FEMS does not rely on alley systems or rear access to structures in order to fight fires. All firefighting activities are conducted from the street and hoses are carried manually around

buildings where necessary to provide access at the rear. There is thus no need for a fire lane separating the Building from the offending encroaching building.

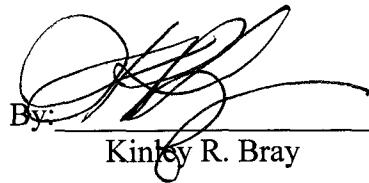
The Applicant submits that a variance from the rear yard requirements will, likewise, not cause any detriment to the public good or impair the intent, purpose, or integrity of the zone plan. As is evident from Exhibit G, the properties along Mt. Pleasant Street, which are the closest to the rear yard, are zoned C-2-A, which permits 100% lot occupancy. The library itself constitutes a public good. Given the constraints of its site and historic character, the requested relief from the rear yard requirements will have no adverse impact on the public good or the zone plan, particularly in light of the equivalent yard space being provided on the south side of the property.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that, upon receipt of all of the Applicant's proof and all other support of record for the variance requested, such relief be granted.

Respectfully submitted,

ARENT FOX LLP

By: 
Kinky R. Bray

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OFFICE OF ZONING

EXHIBIT LIST

- A. Application Form & Authorization Letter
- B. Self-Certification Form (Form 135)
- C. Plat
- D. Architectural Plans & Elevations
- E. Color Photographs of the Site
- F. Names of property owners within 200'
- G. Zoning Map
- H. Aerial Photograph
- I. Photograph of Adjacent Apartment Building
- J. Photograph of encroaching Building

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was mailed, first class, postage pre-paid, to the following persons or organization on this 22nd Day of April, 2011:

Advisory Neighborhood Commission 1D
1380 Monroe St NW, #117
Washington, DC 20010

District of Columbia Office of Planning
1100 4th Street SW, Suite 650
Washington DC 20004



Kinley R. Bray

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