

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

**Application of Stephan M. Rodiger and Marissa A. Piropato  
1528 Church Street, N.W.**

**PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF**

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**STATEMENT OF THE APPLICANTS**

**I. Nature of the Relief Sought**

Stephan M. Rodiger and Marissa A. Piropato (the “Applicant”) submit this statement in support of their application to the Board of Zoning Adjustment for a special exception, pursuant to Section 223, and for variance relief pursuant to 3103.2, to allow the construction of a rear addition to their house located at 1528 Church Street, N.W. The Applicant seeks two special exceptions — lot occupancy (§ 403), and rear yard depth (§ 404) — and one variance pursuant to 3103.2 — private garages and carports (§ 2300). The requested relief is necessary to add, among other things, additional bedrooms and covered parking so as to render the small one-bedroom house suitable for a family.

**II. Jurisdiction of the Board**

The Board has jurisdiction to grant the requested relief pursuant to D.C. Code § 6-641.07 (2013 ed.) and 11 DCMR § 3103.2. [The Applicant seeks expedited relief pursuant to 11 § DCMR 3118.]

**III. Background**

**A. Site and Vicinity Characteristics**

**a. The Property**

The subject property is located mid-block on the south side of Church Street between Fifteenth and Sixteenth Street, N.W., in the Dupont Circle sector of ANC 2-B-

05 District, as shown on the portion of the Zoning Map attached as Exhibit A. The site is composed of Lot 0802 in Square 0194, which abuts a 10-foot alley to the south and a parking lot to the east. The site is rectangular in shape with a width of 20' on Church Street and a length of 95' along the adjacent parking lot. The parcel is improved with a brick farmhouse built in the 1870s and has a total land area of approximately 1,900 square feet. Plats of the site are attached as Exhibit B. The property is located within the Fourteenth Street Historic District, subjecting certain renovations or alterations to the house or the site to review by the Historic Preservation Review Board ("HPRB"). The applicant was on the Consent Calendar for the February 27 HPRB meeting as attached as Exhibit C.

The Property is currently zoned as R-5-B. Under the Zoning Regulations, R-5 Zone Districts are characterized as general residence districts designed to permit flexibility of design. Except as provided in Sections 350 through 361 of the Zoning Regulations, all kinds of residential development are permitted so long as they conform to the height, density, and area requirements. The maximum building height permitted in the R-5-B Zone District is 50 feet. (11 DCMR § 400.1.) The maximum density permitted in the R-5-B Zone District is 1.8 FAR. (11 DCMR § 402.4.) The maximum percentage of lot occupancy permitted in the R-5-B Zone District is 60% (11 DCMR § 403.2.).

#### **B. The Immediate Environs**

This property is located just east of Sixteenth Street, N.W. in the Logan Circle Neighborhood and bordering the DuPont Circle neighborhood. The immediate environs contain a mix of commercial, institutional and residential uses. A large three-story, three-unit building primarily used for rentals is immediately west of the property at 1530

Church Street. Saint Luke's, an African-American, Episcopalian Church on the National Register of Historic Places and a designated historic landmark, and its associated 40-parking space lot, is the structure to the east of the subject property. The property abuts another parking lot to the east that is associated with 1520 Sixteenth Street, which is presently for sale, and it has 21 parking spots. Both parking lots provide spots on a first-come-first-served basis to D.C. residents after business hours and on the weekend. The subject property also abuts a 10-foot rear alley, which is used both by cars and pedestrians. Two structures on the Sixteenth Street are also adjacent to the alley and are built up to their respective lot lines. The entrance to the parking garage for the Institute of World Politics, which is a modified carriage house, is directly across Church Street from the house.

Across Fifteenth Street to the east is a mixed-use development, the Metropole, which was completed in 2009. The 1400 block of Church Street adjacent to the Metropole includes several large six and seven-story condominium buildings of recent construction. The subject site and the surrounding area are well-served by public transportation, including Metrobus lines, the Circulator, the Bike Share Program and the Dupont Circle Metro served by the red line.

### **C. Description of the Property and Proposed Renovation**

The Applicant proposes a four-part renovation: (1) an interior renovation and structural remediation of the original 1870s residential structure; (2) restoration of the façade of the house and the porch; (3) demolition of a 10-foot rear addition that is not structurally sound; and (4) a three-story rear addition with partially covered ground-floor parking. The house is set back approximately 20 feet from the front property line and has

a 200 square foot porch, which the Applicant will preserve. The property is the Applicant's primary residence. It currently is 1,400 square feet and only has one bedroom and two bathrooms. As proposed, the house will have a density of approximately 1.39 Floor Area Ratio ("FAR") and a 68.3% lot occupancy.

The unusually large setback of the property, which is unique to the block, coupled with the historical façade, present significant practical difficulties as to how the Applicant may renovate and expand their home. The Applicant proposes to construct a rear three-story addition to create additional living space, storage and secure parking. At its current size and configuration, the house is not well suited for the Applicant's future housing needs, including having a family. The proposed addition will neither be visible from the subject street frontage nor in any way alter the character of the 1500 block of Church Street.

Given that the house is located within the Fourteenth Street Historic District, the Applicant provided revised concept designs of the building to the Historic Preservation Officer ("HPO") and HPRB throughout January 2014 and a final concept plan on February 19<sup>th</sup>. The HPO Staff Report and Recommendation are attached as Exhibit D. HPRB placed the project on the Consent Calendar for the February 27 meeting.

#### **IV. The Applicant Meets the Standards for Special Exception Review Under the Zoning Regulations**

##### **A. Nature of the Relief Sought'**

Section 223 provides that an addition to a one-family dwelling "shall be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section" even though the house does not comply with all

of the requirements of §§ 401, 403, 404, 405, 406, and 2001. Here, the proposed addition will not comply with all the requirements of lot occupancy (§ 403), and rear yard depth (§ 404) but it satisfies the requirements of Section 223.

Several provisions guide the Board's review under this Section. First, the lot occupancy of the subject dwelling must not exceed seventy percent (70%) in the R-5-B District. Second, the proposal may not be for non-conforming use. Third, the proposed addition "shall not have a substantially adverse affect on the use or enjoyment of any abutting or adjacent dwelling or property." In assessing compliance with this provision, Section 223 articulates a three part-test that the Applicant must show through graphical representations: "(a) The light and air available to neighboring properties shall not be unduly affected; (b) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised; [and] (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."

As explained below, the Applicant satisfies the provisions of Section 223.

#### **B. Standard of Review for Variance Relief**

Section 223 explicitly provides that an addition to a single-family dwelling "shall be permitted" as a special exception so long as the requirements of the subject regulation is met. "The Board's discretion to grant special exceptions is limited to a determination whether the exception sought meets the requirements of the regulation." *Stewart v. District of Columbia Bd. of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973). The Applicant bears the burden of demonstrating that it meets the prerequisites of the

regulation. *National Cathedral Neighborhood Ass'n v. D.C. Board of Zoning Adjustment*, 753 A.2d 984, 986 n.1 (D.C. 2000). Once the Applicant has made the requisite showing, “the Board ordinarily must grant his application.” *Stewart*, 305 A.2d at 518. That is, once the Applicant satisfies the provisions of the regulations, the application is presumptively entitled to approval.

### **1. The Applicant Meets the Lot Occupancy Requirement**

The dwelling and the proposed addition would have lot occupancy of 68.3%. This complies with the requirement of Section 223 that the lot occupancy be less than 70% in the R-5-B District.

### **2. The Proposed Addition is For A Conforming Use**

The Applicant intends to use the house for a personal residence. The proposed addition will render the house suitable for a family and is a conforming use.

### **3. The Proposed Addition Will Neither Unduly Affect the Light and Air of the Neighboring Properties Nor Will it Compromise the Privacy of and Use of Neighboring properties**

The Applicant proposes a three-story rear addition with a carport on the first floor and an additional bedroom or office on the second floor atop the covered parking. This addition will neither “unduly affect” the light and air of the Applicant’s neighbors nor will it compromise the privacy and use of adjacent properties. The subject dwelling is presently the smallest home, and is the only two-story structure, on the 1500 block of Church Street, N.W. As discussed *supra* at page 2, a three-story row house, 1530 Church Street, N.W., is immediately west of the Applicant’s property and a parking lot is to the east. The proposed addition will neither block any neighbor’s windows nor otherwise affect the light of any neighboring property. See Exhibit E. The east elevation of 1530

Church Street N.W. adjacent to the subject site, is a lot-line wall and does not have any windows. The proposed addition will abut that wall and project beyond the rear of 1530 Church by approximately 25' feet. The light and air of the adjacent property will not be unduly compromised by the proposed addition. Rather, the addition will bolster the privacy for the neighboring properties by replacing the shrubs on the east adjacent to the parking lot and the wire fence on the west adjacent to 1530 Church Street with enclosed parking and a brick fence.

#### **4. The Proposed Addition is Consistent with the Neighborhood**

The proposed addition, together with the original structure, will “not visually intrude upon the character, scale and pattern of houses along the subject street frontage.” As an initial matter, the subject rear addition is not visible from the street and it will “not intrude upon the character, scale and patterns of houses along the subject street frontage.” As discussed above, the 1500 block of Church Street is eclectic. There is no consistent or cohesive character, scale and pattern of houses. Two parking lots are immediately east of the property and a large three-story townhome abuts the Applicant’s home. The Institute of World Politics’ carriage house parking garage entrance is immediately across the street from the property. The subject block also is composed of modern single-family rowhouses constructed during the 1970s, small-scale brick three-story rowhouses and two modern multi-family condominiums. The Applicant proposes to restore the house to its original condition by removing any paint and returning it to a red brick color, restoring the front porch and landscaping the front yard, which will improve the overall appearance of the house from the front.

Moreover, the carriage house style doors in the rear will enhance the appearance of the alley. The neighboring homes have garbage bins and multiple cars up to their respective lot lines abutting the alley. The Applicant proposes a built-in area for trash storage and the proposed doors in the rear will obscure any cars from public view. Moreover, the carriage house style doors will be resonant of the carriage house style doors of the Institute of World Politics immediately across the street from the subject property.

Thus, the proposed addition, together with the original structure, will not visually interfere with the character, scale and pattern of houses along Church Street or in the rear alley. Rather, they will enhance the character of the street and the historic district.

## **V. The Application Satisfies the Standard for Variance Relief**

### **A. Nature of the Relief Sought**

The Applicant proposes to construct a rear carport to provide security and privacy. Pursuant to Section 2300, a “private garage constructed on an alley lot shall be set back at least twelve feet (12’) from the center line of the alley on which the lot abuts.” Here, the subject alley is only 10 feet wide. The Applicant proposes to set the rear carport back five feet, which would be ten (10) feet, rather the requisite 12 feet, from the center line of the alley. The significant set back in the front of the house (20’), which must be preserved under historic preservation regulations, require any additions to the house be made in the rear area requiring the modest variance relief sought.



## **B. Standard of Review for Variance Relief**

Under D.C. Code § 6-641.07(g)(3)<sup>1</sup> and 11 DCMR § 3103.2, the Board has the authority to grant an area variance where three factors are satisfied: (1) the subject property is unique; (2) if the Board strictly applied the zoning regulations, the owner would confront practical difficulties; and (3) the proposed variance would not “cause substantial detriment to the public good and would not substantially impair the intent, purpose and integrity of the zoning plan.” *Gilmartin v. D.C. Board of Adjustment*, 579 A.2d 1164, 1167 (D.C. 1990) (quoting *Capitol Hill Restoration Society v. District of Columbia Bd. of Zoning Adjustment*, 534 A.2d 939, 941 (D.C. 1987)). “To support a variance it is fundamental that the difficulties or hardships be due to unique circumstances peculiar to the applicant's property and not to general conditions in the neighborhood.” *Palmer v. D.C. Bd. of Zoning Adjustment*, 287 A.2d 535 (D.C. 1972).

As discussed below, the Applicant meets all three prongs of the variance test.

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<sup>1</sup> Section 6-641.07 of the D.C. Code provides, *inter alia*, that

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 any regulation adopted under this subchapter would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property, to authorize, upon an appeal relating to such property, a variance from such strict application so as to relieve such difficulties or hardship, provided such relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the zoning regulations and map.

D.C. Code § 6-641.07(g)(3) (2013).

### **C. The House's Extraordinary or Exceptional Circumstances**

An exceptional situation or condition is in reference “to an economic, geographic or topographic situation or condition, connected with or affecting the lot for which the variance is sought . . . .” *Id.* at 539. Here, the subject home meets this requirement because of several factors. First, the house has a 20-foot setback and a four-feet above sidewalk grade elevation. This is a unique condition on the block as the neighboring homes on the subject block are built up to the street. Second, the subject home is the only private residence to abut the adjoining asphalt parking lots. It is currently open to the general public after 5pm and during the weekday and weekends. The constant traffic created by these parking lots necessitates additional measures to secure the subject property's parking area. Finally, because of its location in the Fourteenth Street Historic District, any exterior alterations or additions to the front of the home must retain the size, character and appearance of the façade, which limits any additions to the rear of the home.

The confluence of these characteristics — the unusual and large front set-back, the four feet above sidewalk grade elevation, its proximity to large asphalt parking lots, and the requirement for a design that preserves the historic character of the home — place substantial limitations on where an addition may be located and effectively drives expansion decisions. Taken together, they also render the Applicant's home unique. *Gilmartin*, 579 A.2d at 1168 (uniqueness can be the product of a confluence of factors). Indeed, as illustrated in Exhibits F, G, and H (TBD), no other home in the immediate area is subject to these unique conditions. *Id.* (“The critical point is that the extraordinary or exceptional condition must affect a single property.”)

#### **D. Resulting Practical Difficulties**

Due to the unique character of this home, the Applicant confronts practical difficulties in satisfying the strict application of Section 2300, which requires that any garage structure or carport be 12 feet from the center of the alley. Here, the subject alley is only ten feet wide and the Applicant proposes a carport structure that would be ten feet from the center line of the alley. As noted above, any addition to the house must be in the rear yard, which is small due to the large setback in the front of house. The Applicant's proposed ten foot set back balances the minimal space in the rear yard area with the need to provide some set back in the rear yard area. The proposal is only two feet short of the twelve-foot setback.

#### **E. No Harm to Public Good**

The requested relief will neither harm the public good nor threaten the integrity of the zone plan. The proposed rear addition will enhance the appearance of the alley. The neighboring homes have garbage bins and multiple cars up to their respective lot lines abutting the alley. The rear addition will house a built-in area for trash storage and the Applicant's car will be obscured from view. The zone district plan will thus not be compromised by the minor variance proposed by the Applicant.

#### **V. Community Support**

The Applicant has taken the necessary steps to secure community support. The Applicants met with the Development Preservation Zoning Committee of the Advisory Neighborhood Commission ("ANC") on January 7 and February 5. Moreover, the Applicant and/or representatives appeared before the ANC 2B05 on January 8 and February 17. Finally, the applicant appeared before the DuPont Circle Conservancy on

January 14 and February 11. A certified letter will be mailed to any neighbor within 200 feet of the property.

**VI. Witnesses**

The following witnesses will provide testimony at the Board's public hearing on the application:

Stephan Rodiger  
Marissa Piropato  
Sacha Rosen

**VII. Conclusion**

For the reasons set forth above, the requested relief satisfies the relevant requirements for the Zoning Regulations and is consistent with the intent, purpose and integrity of the Zoning Regulations. The Applicant therefore respectfully requests that the Board grant the Application.

## **EXHIBITS IN SUPPORT OF APPLICATION**

1. Exhibit A – Zoning map showing location of property
2. Exhibit B – Plats of the site
3. Exhibit C – Consent Calendar for the February 27 HPRB meeting
4. Exhibit D – HPRB Staff Report and Recommendation
5. Exhibit E – Illustration of proposed addition
6. Exhibit F – Photographs representing relationship of the house to adjacent buildings and public ways
7. Exhibit G – Plans representing relationship of the house to adjacent buildings and public ways
8. Exhibit H – Section drawings representing relationship of the house to adjacent buildings and public ways