

RE: Request for BZA approval of application B1409141 for a *special exception* and rear yard *variance* to allow the construction of a one story addition between the *main building* and the *accessory building* at 1351 Wisconsin Avenue NW lot. 0811 sq. 1243 the Georgetown Movie theater building.

The applicant requests a BZA *special exception* to § 2514.1 (d) of the zoning code for the construction of an addition at 1351 Wisconsin Avenue located in the 35' restricted area behind the main building as allowed by §2514.2 and an area *variance* to § 774.1 to allow the existing 2' rear yard in place of the 15 foot rear yard required for C2A zoning.

EXISTING AND INTENDED USE OF THE PROPERTY

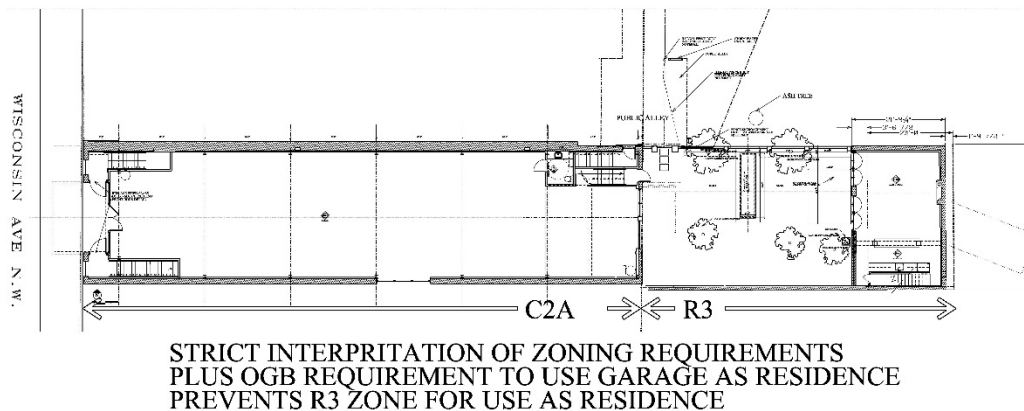
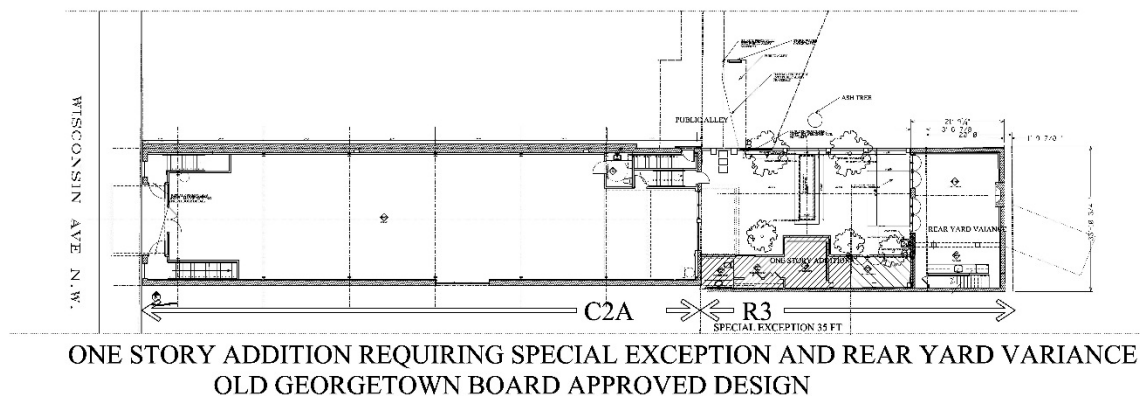
1351 Wisconsin Avenue lot 0811 SQ 1243 with its historic buildings is a lot which was divided between two zones, C2A for the front and R3 in the rear, on May 12, 1958 qualifying it for § 2514 “ZONE DISTRICT BOUNDARY LINE CROSSING LOT.” The *main building*, known as the Georgetown Movie Theater is commercial and occupies the front C2A portion of the lot. The *accessory building* a 19th century brick carriage house is located 2 feet from the rear property line. The R3 rear portion of the lot has been used as a parking lot and garage.

The intended future use of the front *main building* is “mixed use” with retail on the first and basement levels, offices on the second floor and apartments on the third floor. The intended use of the R3 portion of the lot is a residential.

HOW THE SPECIAL EXCEPTION CREATES HARMONY WITH INTENT OF ZONING.

The most harmonious use of this R3 portion of the lot is to have the historic carriage house be a residence and a garden, which would replace a parking lot and a garage. To accomplish this, the owner is requesting to connect the *main building* and the *accessory building* with an addition. Why? This is the result of the unique historical character of the property because of the location of the *main building*, the Theater, and the *accessory building*, the carriage house, on the lot. The unique historical character of the lot and the applied zoning division creates a conflict with the strict interpretation of the zoning laws and the addition required to fulfill the zoning intent. The intent of the zoning is best accomplished by the proposed addition that requires a *special exception* to §2514.1 (e) and a *variance* to § 774.1.

The *accessory building*, a 19th century brick carriage house, is located 2 feet from the rear lot line in the R3 portion of the lot. The main building, the Georgetown Movie Theater occupies all of the C2A portion of the lot. The Old Georgetown Board after many reviews required the residence be located in the historic carriage house with an addition connecting it to the Theater building. (See exhibit A. OGB approved design) this preserved the open character of the site, restored the historic buildings and changed the parking area into a residence and garden. The owner supports this approach.



The unique character of the property and strict zoning interpretation presents a dilemma for the owner because without the *special exception* and *variance* the property **cannot be used** as residence. This is because an *accessory building* cannot have cooking or bathing facilities. However, if the requested structure is approved, the *accessory building* would become part of the *main building* thus allowing both cooking and bathing facilities. Living in a building without cooking or bathing facilities certainly presents exceptional and undue hardship on any occupant or owner.

The proposed addition is a narrow eight foot, one story building which passed through the 35 foot restricted area behind the C2A portion of the lot and requires a special exception to § 2514.1 (d). The BZA may allow this *special exception* if it determines that the addition meets § 2514.2 requirements.

A letter of findings by Matt LeGrant D.C. zoning administrator confirmed that the *main building* complies with § 2514.1 and § 2514.2(a & b) (See exhibit B*) The OGB has thoroughly addressed § 2514 (c & d) with a series of public hearings and comments from the ANC which have specifically addressed the design, appearance and requiring screening with trees, garden design and garden wall. They have also addressed limitation on size, number and type of lighting and approved them. (See plans in exhibit A and specifications in exhibit C)

The proposed use and design of the property has also been reviewed and approved by the ANC. The ANC specifically voted to let OGB determine the appropriateness of the proposed addition connecting the *main building* and the *accessory building*. The OGB has approved the design presented in this application. There are over 20 letters of support of this design from neighbors set to the ANC and OGB. Four neighbors have opposed the design and have requested the owner sell them the R3 portion of the lot for parking and access to their properties. The owner believes this use of the property is antithetical to the residential character of this part of the property and the general quality of the property and has declined their request.

Without the addition, the owner will be required to continue to use the carriage house as an *accessory use* to the commercial structure of the C2A portion of the lot. Granting the *special exception* would be in harmony with the intent of residential zoning as required by § 2514.2 (c). Denying the owners intended use of the property as residential would be less harmonious. The owner requests the BZA grant to *special exception* to allow building of the approved OGB design.

WHY PROPERTY MEETS BZA STANDARD FOR A REAR YARD VARIANCE

The property is unique and extraordinary in several respects. The size and shape of the two historic brick structures which are located in the Georgetown historic district makes creating a rear yard larger than the existing 2 feet impossible. The main building on the C2A portion of lot is the Georgetown Movie Theater, previously this was a silent movie theater named the

Dumbarton located in the front of this lot. The 1940's Theater façade is being restored by the owner with a third story being added on its rear. The 19th century carriage house that is an *accessory building* is located 2 feet from the rear lot line on the R3 portion of the lot. Both structures predate the 1958 zoning regulations. In order to preserve the historic character of the lot, the existing carriage house should remain and therefore the rear yard cannot be increased.

Further, the intent of the zoning is to allow this existing condition to remain for a building existing before 1958 as is illustrated by the fact that § 404.4 of the zoning code allows the present *accessory building* to remain and be expanded with its existing 2 foot rear. It is only because the designation of the structure is changed from *accessory building* to *main building* that requires the variance. The historic building and its character has not changed. Only the connection to the *main building* has changed and this change is being requested precisely to allow compliance with the residential character intended by the zoning. Allowing the *variance* enforces the intent of the zoning.

The proposed addition will enhance and preserve the residential and historical character of the property as enumerated in discussion of the special *exception* request. The BZA should approve a variance to the strict 15 foot rear yard requirement and allow the existing 2' rear yard to remain and suffice.

The OGB design requirements have placed additional restrictions upon this specific lot has created peculiar and exceptional problems which place undue hardship on the Owner unless the BZA requests are granted. The OGB has required that any residential unit should be placed in the existing historic carriage house and connected to the main building with the proposed addition. Zoning regulations would allowed a number of additional units to be built on the R3 portion of the property as long as they were connected to the *main building* but not to the *accessory building* leaving the carriage house as an *accessory building* with its grandfathered rear yard. The owner provided a series of designs which met these requirements and were reviewed by the Zoning but they were rejected by OGB.

The restrictions on this lot are exceptional when contrasted to historical Georgetown precedent for lots with zoning boundary crossing lines. There are only two other lots in Georgetown which have the § 2541 characteristics. The OGB and the DC government have granted permission to build numerable residential units on the R3 portions behind the C3 commercial fronts as

illustrated by 1219 28th Street NW. The zoning code allows this same development on this lot. The unique OBG ruling means that the R3 portion of the lot may be used as resident only if the linking the main building to the accessory structure is allowed. This presents peculiar, exceptional and practical difficulties for the owner of the property.

The rear yard *variance* relief will not substantially be a detriment to the public good and impairing the intent, purpose and integrity of the zoning plan embodied in the D.C. zoning Code. This *variance* will be a positive contribution to the intent of its residential zoning. The present derelict garage and dirt parking lot have been a magnet to trash, vermin and vagrants. This addition replace it with by restoring the historic carriage house with a residence and replacing the parking lot with a walled garden. This addition and the remodeling of the property will *stabilize the integrity of this residential area and promote a suitable environment for family life* which is the intent and purpose of the residential zone.

THE AFFECTS ON THE NEIGHBORS ARE POSITIVE

How are the neighbors affected by the proposed 8' wide one story high addition linking the Theater building and the carriage house? The south side of the structure is against an existing party wall shared with the neighbors to the south. The party wall is the rear of these neighbors' garages and garden walls and is several feet higher than the proposed addition. The new structure would not be visible from the neighbor to the south- new trees in the garden and the elimination of parking will be positive.

The neighbors to the north presently look at the backs of these garages that are brick and corrugated metal. The proposed 8 foot addition will be French doors and windows against this wall with a 20 foot wide garden and garden wall screening the view from the existing neighbors and the new residence. This garden with reflecting pool and plantings is specifically designed to provide privacy to both the existing residences and to the new carriage house residence. The use of this area has been a dirt parking lot that has constantly been an annoyance because of trash, vermin and vagrants. The proposed addition will transform this area into a walled garden where residence live in contrast to the present activities in this vacant lot especially at night. Further

the OGB has specifically denied the right to park even one single car in this garden, which previously was used daily by six to seven cars.

The proposed *special exception* will transform what has been a visual and health blight in the center of a residential block into a residence and a garden. The garden design also responds to a large Ash tree located in the neighbor's garden. The tree is seen in a reflecting pool from the proposed addition. There are no detrimental features created by this application which will effect traffic, noise, light or air which have already investigated in depth by the ANC and OGB and it has no adverse effect upon the present character and future development of the neighborhood. Finally, the design of the new structure is quite modest but it is key to restoring and revitalizes the historic structures on the site.

Granting the application is consistent with the intent and purpose of the zoning regulations. For all of the reasons above, the strict application of the D.C. official Code would result in practical, difficulties and exceptional and undue hardship upon the owner of the property. The granting of the *variance* and *special exception* will relive these difficulties. The applicant request the BZA approval.

**The addition of this application was eliminated from the permit application, B 1400387 to allow the majority of the restoration to move forward without delaying for the BZA process. The letter of finding addresses the zoning compliance without the inclusion of the addition proposed on this application.*