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July 21, 2015

VIA HAND DELIVERY

Lloyd Jordan, Chairperson
Board of Zoning Adjustment
441 4th Street, N.W., Suite 210S
Washington, DC 20001

**Re: BZA Application for 2708 Sherman Avenue NW
Square 2858, Lot 53 (the "Property") – Special Exception Application**

Dear Chairperson Jordan & Members of the Board:

Please accept for filing the enclosed application of Warder, LLC (the "Applicant"). The Applicant requests special exception relief pursuant to 11 DCMR §3104.1, to permit the conversion of an existing residential building to a three-unit apartment house in an R-4 District.

The application package includes the following materials:

1. Agent Authorization Letter;
2. Statement of Intended Use;
3. Plat showing the existing structure on the Property;
4. BZA Form 126, Fee Calculator;
5. BZA Form 135, Self-Certification;
6. Statement of the Applicant;
7. List of names and mailing addresses of owners of all property within 200 feet of the boundaries of the Property;
8. Zoning Map;
9. Architectural Plans; and
10. Photograph of the Property.

We believe that the application is complete and acceptable for filing, and request that the Board schedule a public hearing for the application as soon as possible. If you have any questions, please do not hesitate to contact me on behalf of the Applicant.

Thank you for your attention to this application.

Sincerely,

GRIFFIN, MURPHY,
MOLDENHAUER & WIGGINS, LLP



By: Meredith H. Moldenhauer

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

**APPLICATION OF
WARDER LLC**

**2708 SHERMAN AVENUE, NW
ANC 1B**

STATEMENT OF THE APPLICANT

I. NATURE OF RELIEF SOUGHT

This statement is submitted on behalf of Warder, LLC (the “Applicant”), in connection with the property located at 2708 Sherman Avenue NW, Lot 53 in Square 2858 (the “Property”) in support of its application for special exception relief to convert an existing residential building to a three-unit apartment house in an R-4 District.

II. JURISDICTION OF THE BOARD

The Board of Zoning Adjustment (the “Board” or “BZA”) has jurisdiction to grant the special exception relief requested pursuant to §3104.1 of the Zoning Regulations.

III. BACKGROUND

A. Background Information Regarding the Property

The Property, also known as Lot 53 in Square 2858, contains approximately 3,000 square feet of lot area and is located in Northwest Washington, D.C. Square 2858 is bounded by Sherman Avenue NW to the east, Fairmont Street NW to the south, 11th Street NW to the west, and Girard Street NW to the north. The Property is not located within any historic district, and the existing building on the Property is not listed on the D.C. Inventory of Historic Sites.

The Property is presently improved with a deteriorated, vacant, 2-story semidetached dwelling located at the end of a row of primarily rowhomes. *See Aerial Photograph of Property at Tab A.*

B. Description of the Improvements in the Surrounding Area

Square 2858 is located in the Columbia Heights neighborhood. The Square is zoned R-4 but one block west a portion of Square 2885 is zoned C-2-A. Notably, Howard University, which is zoned D/R-5B and R-5-B is only two blocks west of the Property. *See Zoning Map at Tab B.* The Square is occupied primarily by rowhouses and flats. Also in the Square are a few semi-detached and detached dwellings, and a few walk-up apartment houses.

C. Description of the Traffic Conditions and Mass Transit Options in the Surrounding Area

The Property is well serviced by a number of public transportation facilities and services including Metro, Metrobus routes, Capital Bikeshare, and Zipcars. The Property is located approximately 6 blocks (0.4 miles) from the Columbia Heights Metro Station. Moreover, Metrobus routes along Sherman Avenue (63, H1, H2, H3, H4), 11th Street NW (64), and Georgia Avenue NW (70) all serve the Property. A bus stop is located across the street on Sherman Avenue. In addition, the Property is within close proximity to a number of the District's bikesharing and carsharing programs. Seven Capital Bikeshare stations are located within 0.5 miles of the Property. The closest is at Georgia Avenue NW and Fairmont Avenue NW (3 docks). Several Zipcar spaces are located within walking distance including 1 space behind 1201 and 1203 Euclid Avenue NW. Car sharing is also available from Hertz on Demand and RelayRides. On walkscore.com, the Property received a walkscore of 91 out of 100 and is deemed a "walker's paradise"; and a transit score of 83 out of 100 and is deemed "excellent transit".

D. Description of the Proposed Development

As shown on the architectural plans, *See Architectural Plans and Elevations at Tab C*, the Applicant proposes to convert the Property from a vacant two-story semi-detached structure into a three-story apartment house without side yards, with three residential units. The current footprint of the structure will be extended 10 feet past the rear of the adjacent property, for a total 25 feet addition. The

proposed structure will have 1-bedroom units at the cellar and first floor. The second and third floor of the structure will house a 3-bedroom family sized unit.

IV. NATURE OF SPECIAL EXCEPTION RELIEF SOUGHT AND STANDARD OF REVIEW

The Zoning Commission, pursuant to Order 14-11, altered the standard for conversions of residential buildings to apartment houses in the R-4. Pursuant to 11 DCMR §3104, and subject to the new 11 DCMR §336, the Board is authorized to grant a special exception to permit the conversion of a residential building into an apartment house where it finds that 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 adversely affect the use of neighboring property, subject in each case to the special conditions specified. 11 DCMR §3104.1.

Unlike an area variance, relief granted through a special exception is presumed appropriate, reasonable, and compatible with other uses in the same zoning classification, provided the specific regulatory requirements for the requested relief are met. In reviewing an application for special exception relief, “[t]he Board’s discretion . . . is limited to a determination of whether the exception sought meets the requirements of the regulation.” *First Baptist Church of Washington v. District of Columbia Bd. of Zoning Adjustment*, 423 A.2d 695, 706 (D.C. 1981 (*quoting Stewart v. District of Columbia Bd. of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973))). If the applicant meets its burden, the Board must ordinarily grant the application. *Id.*

V. THE APPLICANT MEETS BURDEN FOR SPECIAL EXCEPTION RELIEF

The Applicant meets all of the requirements of 11 DCMR §336.2 through §336.11 issued under the Zoning Commission’s Notice of Final Rulemaking & Order No. 14-11.

1. §336.2

Pursuant to 11 DCMR §336.2, the maximum height of a residential building and any additions thereto shall not exceed 35 feet, but the BZA may grant a special exception under §3104 subject to §§ 336.3 through 336.11. The Property complies with this requirement. The height of the building will be 33 feet 9 inches.

2. §336.3

Under §336.3, the 4th dwelling unit and every additional even number dwelling unit thereafter shall be subject to the requirements of Chapter 26, Inclusionary Zoning, including the set aside requirement set forth at § 2603.9. The Property will contain only three (3) units, and therefore this subsection is not applicable.

3. §336.4

Section 336.4 requires that there be an existing residential building on the property at the time of filing an application for a building permit. The Property is currently improved with an existing two-story residential building. The existing building will remain at the Property, as the Applicant only seeks to renovate and improve the existing building.

4. §336.5

Pursuant to §336.5, there shall be a minimum of 900 square feet of land area per dwelling unit. The Property contains 3,000 square feet of land area, and the developer intends to create three (3) units. Therefore, only twenty seven hundred square feet (2,700 square feet) of land area is required.

5. §336.6

Under §336.6, any addition, including a roof structure or penthouse, shall not block or impede the functioning of a chimney or other external vent on an adjacent property required by any municipal code. The Property is located at the end of a row of dwellings; it is only adjacent to one property, a semi-detached dwelling located at 2710 Sherman Avenue NW. The Property and 2710 Sherman

Avenue NW share a party wall. South of the Property is an open air foot path, separating the Property from the rear of the properties along Fairmount Street NW. 2710 Sherman Avenue does not have a chimney or other external vent. Consequently, this section does not apply. *See Aerial Photograph at Tab A.*

6. §336.7

Pursuant to §336.7, any addition, including a roof structure or penthouse, shall not interfere with the operation of an existing or permitted solar energy system on an adjacent property, as evidenced through a shadow, shade, or other reputable study acceptable to the Zoning Administrator. The only adjacent property, 2710 Sherman Avenue, does not have an existing or permitted solar energy system. As such, this section does not apply. *See Aerial Photograph at Tab A.*

7. §336.8

Section §336.8, requires that any roof top architectural element original to the house such as a turret, tower, or dormers shall not be removed or significantly altered, including changing its shape or increasing its height, elevation, or size. The existing structure does not have any roof top architectural elements. *See Photo of Existing Structure at Tab D.*

8. §336.9

Pursuant to §336.9, any addition shall not have a substantially adverse effect on the use or enjoyment of any abutting dwelling or property. Specifically,

- (a) the light and air available to neighboring property shall not be unduly affected;
- (b) the privacy of use and enjoyment of neighboring properties shall not be unduly compromised; and
- (c) the conversion and any associated additions, 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 or alley.

The rear and third floor addition will not unduly affect the light and air available to neighboring properties. There is a significant amount of space that separates and will continue to separate the

Property from most neighboring properties. The Property, after the proposed conversion, will maintain a rear yard of 59 feet, which is an exceptionally deep rear yard. Moreover, the Property is separated from neighboring properties along Fairmont Street NW by a foot path and their rear yards. The Property is adjacent to only one property, 2710 Sherman Avenue, which will continue to have access light and air on three sides of the building. Therefore, the light and air available to it will not be unduly affected.

Likewise, the privacy of use and enjoyment of neighboring properties will not be unduly compromised by the proposed addition. As stated above, except for the adjacent property, all other neighboring properties are significantly setback from the proposed structure. The adjacent property does not have a roof deck or solar panels, therefore the additions will unduly compromise the use of their property. Furthermore, the use of the Property will continue to be residential, a permitted use in the R-4. Lastly, the proposed additions will not visually intrude upon the character, scale or pattern of house along Sherman Avenue. Sherman Avenue does not have one architectural type or style. Many of the homes have turrets that greatly increase the visual height of the structure. Therefore, the additions to this Property will not disrupt the visual appearance of the block.

9. §336.10

Section §336.10, dictates that in demonstrating compliance § 336.9, the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the conversion and any associated addition to adjacent buildings and views from public ways. Please see attached plans, photographs and elevation and section drawings. As can be seen in the Sherman Avenue photograph at **Tab E**, 2726-2734 Sherman Avenue all have turret roofs.

10. §336.11

Pursuant to §336.11, BZA may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent or

nearby properties, or to maintain the general character of a block. The developer intends to fully comply with any special treatment the BZA requires.

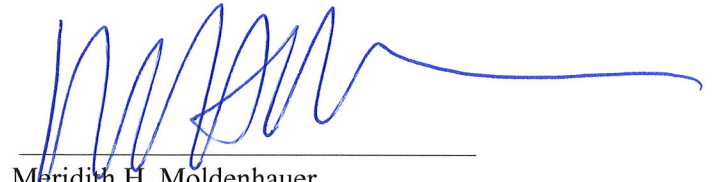
Consequently, for the reasons outlined above, the Applicant has met the requirements for granting special exception relief pursuant to §336.

VI. CONCLUSION

For the foregoing reasons, the requested relief meets the applicable standards for special exception relief under the Zoning Regulations. Accordingly, the Applicant respectfully requests that the Board grant the Application.

Respectfully submitted

GRIFFIN, MURPHY,
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