

Exhibit 6

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

Application of
Matcap LLC

BZA Application No:
ANC: 2F

STATEMENT OF THE APPLICANT

I.

Nature of Application

This is an application by Matcap LLC (“**Applicant**”) for relief from the strict requirements of the Zoning Regulations to permit the construction of a carriage house, a detached building with ground-floor parking use and accessory storage on the second floor, on the property located at Square 241, Lot 0837 (the “**Property**”), also known as 12R Logan Circle NW.¹ The application requests variance relief pursuant to 11 DCMR § 3103.2 from 11 DCMR § 403.2 relating to lot occupancy requirements, from 11 DCMR §404.1 relating to rear yard setbacks, and from 11 DCMR § 2300.4 relating to alley lot setbacks for private garages. Additionally, the Applicant requests variance relief from the requirements of 11 DCMR § 3202.3 relating to single record lot requirements for the issuance of a building permit. The project will conform to the Zoning Regulations in all other ways.

II.

Jurisdiction of the Board

The Board has jurisdiction to grant the relief requested pursuant to Section 3103.2 of the Zoning Regulations (11 DCMR § 3103.2).

¹ The Property is part of record lot 77 in Square 241; however, Applicant is requesting relief from the strict requirements of §3202.3 related to single record lots to apply as the tax lot 837, *see infra Section V.B.*

III.

Information Regarding the Property and Project

A. Description of the Project

The Project will create a twenty-two foot, two-story structure to be used as a private garage on the first floor and as accessory storage space on the second floor (the “Project”). The Project will have an FAR of 1.8 and consist of approximately 1,610 square feet in total.

The building will be constructed with ground floor enclosed parking, which will have a total of three (3) spaces, and the second floor will provide accessory storage space for the garage (the “Building”). The Building will occupy 94% of the lot, which measures 27.125 feet wide by 33 feet deep.

The Building will largely be constructed with brick, which fits the overall historic nature of the surrounding properties. The private garage use of the Building will consist of approximately 841 square feet, while the storage use of the Building will consist of approximately 769 square feet.

B. Description of the Property

The Property is located in the Logan Circle neighborhood to the northwest of Logan Circle at the rear of a property fronting on the circle directly. The Property is at the corner of two alleys. The alley to the north of the Property runs east-west, and is twenty feet wide. The alley to the west of the Property winds behind many of the Logan Circle properties and is fifteen feet wide. The Property is located in the middle of Square 241. This portion of the square is bounded by 13th Street NW, Logan Circle NW, Kingman Place NW, and Q Street NW. The Property measures approximately 895 square feet in land area. The Property is unimproved and is currently used as a surface parking lot.

The Property is located in both the Greater 14th Street and the Logan Circle Historic Districts. The Applicant has met with the Historic Preservation Review Board (“HPRB”) regarding the Property’s location within the two historic districts. The Project concept was approved by HPRB on the consent calendar at the September 24, 2015 meeting (See attached Exhibit 9 of Historic Preservation Office Report and HPRB Agenda).²

The Property is located in the R-5-B Zone District, which permits private garages and accessory storage as a matter-of-right. The lot occupancy permitted in the R-5-B Zone District is 60%. The floor area ratio (“FAR”) permitted in the R-5-B Zone District is 1.8. Because the lot is an alley lot, the maximum height permitted is the distance from the opposite line of the alley to the nearest line of a structure on the Property.

C. Description of the Surrounding Area

The Applicant owns a neighboring property (1310 Q Street NW) across the northern alley from the Property and is constructing residential units on that adjacent Property. The Property is located on the northern portion of a record lot that is also occupied by a residential building fronting on Logan Circle. The majority of uses surrounding the Property are residential, including some multi-family residential uses. Most of the single-family residential uses in the area, as well as some of the multi-family properties, are row-homes. To the immediate east of the Property is a one-story garage, and across the alley is multi-family use. Immediately to the west of the Property is a complex of two-story carriage houses, which is used to house the Kingman Boys and Girls Club of Washington DC, and to the north across the alley is another two-story alley building.

² Applicant recognizes that, while the massing approved by HPRB is largely remaining the same, there have been some modifications to the plans approved on September 24, and Applicant will continue to work with HPRB regarding the Project.

The land to the south and east of the Property are also zoned R-5-B. To the north of the Property across the alley, the properties are zoned R-4, and to the west of the Property, the land is in the C-3-A Zone District in the Arts Overlay.

The 2006 Comprehensive Plan Generalized Land Use Map places the Property, as well as the surrounding property, in the Moderate Density Residential Land Use category. Properties to the further west of the Property are within the Medium Density Residential and Moderate Density Commercial land use categories.

IV.

Description of Relief Requested

A. Relief Requested – Area Variance from the Lot Occupancy Requirement

Pursuant to 11 DCMR §403.2, a building in the R-5-B Zone District devoted to any use should not exceed 60% lot occupancy. However, due to the exceptionally small size of the building lot, the Project will exceed such 60% threshold. The Building, in order to be viable in size, must have lot occupancy of 94%. Accordingly, the Applicant requests a variance from § 403.2 to permit the construction of a structure that exceeds 60% lot occupancy.

B. Relief Requested – Area Variance from the Setback Requirements

There are two setback requirements in the regulations that would restrict construction on the Property to such an extent that it would make the Project impracticable. Therefore, the Applicant requests a variance from the requirements discussed below to permit the construction of a structure that exceeds the various setback requirements.

1. Rear Yard Setback

Pursuant to 11 DCMR §404.1, a building in the R-5-B Zone District must have a rear yard equal to “4 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 or parapet wall, but not less than 15 feet.” Because of the limited height of the Project, the Property would be subject to the minimum rear yard requirement of fifteen feet. Because of the small shape of the lot, such a rear yard requirement would restrict roughly half of the lot from improvements. Accordingly, Applicant requests a variance from § 404.1 to permit the construction of a structure without a rear yard on the Property.

2. Garage Setback

Pursuant to 11 DCMR § 2300.4, a private garage on an alley lot must be set back from the center line of the alley on which the lot abuts by at least twelve feet. The garage entrances will be set back from the center line of the twenty-foot wide alley to the north of the Property. However, because of the small size of the lot, the west side of the Building will be constructed up to the lot line, which only gives a setback of seven and one-half (7 ½) feet from the center line of the fifteen-foot alley to the west. Accordingly, Applicant requests a variance from § 2300.4 to construct a private garage on the Property without setting back the garage the full twelve feet from the center line of the western alley.

C. Relief Requested – Area Variance from the Single Lot Building Permit Requirement

Pursuant to 11 DCMR § 3202.3, a building permit cannot be issued for the construction of a building unless the structure will be on a separate record lot. In this case, the Property is part of record lot 77; record lot 77 is comprised of Assessment and Taxation lots 836 and 837. Lot 836, the adjacent property which fronts on Logan Circle, is improved with a single family home. Applicant requests a variance from § 3202.3 to allow the construction of a structure on a record lot that includes another principle structure.

V.

Satisfaction of Standards for Relief

A. Area Variance Relief

In order to obtain area variance relief an applicant must demonstrate that: (i) the property is affected by an exceptional or extraordinary situation or condition, (ii) the strict application of the Zoning Regulations will result in a practical difficulty to the applicant, and (iii) the granting of the variance will not cause substantial detriment to the public good nor substantially impair the intent, purpose or integrity of the Zone Plan. Palmer v. D.C. Bd. of Zoning Adj., 287 A.2d 535, 541 (D.C. 1972). The Applicant seeks area variance relief for requirements related lot occupancy and setbacks.

1. The Property is affected by Exceptional Conditions

The Property is affected by exceptional conditions by virtue of the lot being so small in size and located adjacent to two alleys. The lot, in its entirety, 27.125 feet wide by 33 feet deep. The small size limitation of the lot, accompanied by its location on two alleys presents exceptional conditions that limit the Applicant's ability to develop the Property in strict compliance with the Zoning Regulations.

The Board has previously held that the small land area of a lot and a lot's location on an alley can present exceptional conditions to warrant granting a variance. See, e.g., Order No. 15488 of Paul and Henry Sliwka (granting variances on March 6, 1991 for two alley lots, each consisting of less than 630 square feet on an alley 14 feet wide). In the instant case, the Property encompasses only 895 square feet of land area. Additionally, the alley lot is a corner lot, thus fronting on two alleys. This frontage increases the overall area of the Property that fronts on open space, creating a natural setback in each instance, but also triggering additional setback

requirements. Thus, the Property's small land area and frontage on two alleys present exceptional conditions restricting Applicant's ability to strictly comply with the Zoning Regulations when developing the Property with an economically feasible Project.

Additionally, the Property's current use as a surface parking lot also increases its unique nature. The Court of Appeals held in Clerics of St. Viator v. D.C. Bd. of Zoning Adj., 320 A. 2d. 291 (D.C. 1974) that the exceptional situation or condition standard goes to the property, not just the land. The Court in Monaco v. D.C. Bd. of Zoning Adj., 407 A.2d 1091 (D.C. 1979) went even further and noted that the exceptional situation or condition is not limited to the land or the physical improvements on the land, but applies also to the history of the property. Furthermore, the Court of Appeals held in Gilmartin v. D.C. Board of Zoning Adjustment, 579 A.2d 1164, 1167 (D.C. 1990), that it is not necessary that the exceptional situation or condition arise from a single situation or condition on the property. Id. Finally, it is not necessary that the Property be unreservedly unique. Rather, applicants must prove that a property is affected by a condition that is unique to the property and not related to general conditions in the neighborhood.

In this situation, because of the Property's small size, no improvements have been built and the Property has been almost solely used for surface parking. Further, because it is being used as surface parking, it is almost impossible to tell where the Property, and thus parking use, ends, and where the alley begins. Such use of the Property, as shown in the plans on Exhibit 7, has led to cars parking illegally between the surface lot and the alley, thus diminishing the alley space and making it more difficult for cars traveling in the alley to get by. Therefore, the unique nature of the corner lot on two alleys used for parking would indicate the Project will serve the space better by only allowing parking in specified, enclosed spaces.

2. Strict Application of the Zoning Regulations Would Result in a Practical Difficulty

In this case, strict application of the lot occupancy and setback provisions in the Zoning Regulations would cause practical difficulty to the Applicant. Strict application of the lot occupancy and setback requirements of the Zoning Regulations would limit the Project to a practically impossible size. The Applicant is constructing the garage to provide enclosed parking, as well as accessory storage space. Nevertheless, given the small size of the lot, to limit the Project to only 60% of the lot or to require setbacks for rear yard, as well as to setback the Building from both of the alleys, would make the size of the Project too small to create more than one legal sized parking spaces in the enclosed garage. Imposition of each of these setback requirements would relegate development to a 22.625 by 16 foot patch of land, for a total building footprint of 354 square feet. Such a size would only allow for one legal parking space in the Building, which would not make the Project economically feasible. The limited size of the building would create a practical difficulty for the Applicant in constructing a feasible project.

Further, because of the shape of the lot, such a parking space would have to have an entrance on the fifteen-foot alley as opposed to the twenty-foot alley. Therefore, cars entering the one parking space would have to traverse more alley space, maneuver the turn into the space immediately after turning onto the fifteen-foot alley, and have to make that turn on a smaller space. Thus, strict application of the regulations would create an economically impracticable project that was difficult for a driver to navigate. Strict application of all of these requirements would result in a practical difficulty for the Applicant in developing the Property.

3. Relief Can Be Granted Without Substantial Detriment to the Public Good and Without Impairing the Intent, Purpose, and Integrity of the Zone Plan

Relief in the instant case can be granted without detriment to the public good and without impairing the intent, purpose, or integrity of the Zone Plan. The surrounding area around the Property largely consists of similar uses of carriage houses and two-story structures on alley lots. Additionally, the lot is a corner lot which fronts on two alleys, providing a greater natural buffer to the Project, one of the protections advanced by the Zoning Regulations. Also, the Zone Plan and the Comprehensive Plan discourage use of sites for passive automotive uses, such as surface parking lots. Comprehensive Plan §306.4 (LU-1.3 Transit-Oriented and Corridor Development); Comprehensive Plan § 404.8 (T-1.2.3 Discouraging Auto-Oriented Uses). Instead, the Project provides enclosed, safe parking, and changing the use from a surface parking lot improves the alleyscape in the surrounding area. Further, the Project will complement the existing structures and uses on the alley. As noted in Exhibit 9, HPRB believed the Project was well-suited for the historic nature of the Property.

More specifically as applied to the area variances, the relief requested will not have a negative impact on the surrounding area or the Zone Plan. Because the Property is a corner lot abutting two alleys, the setbacks and lot occupancy protections in the Zoning Regulations are not completely impeded, but are further protected by the distance of the proposed building from the other structures on the adjacent properties. Further, with respect to the private garage setback on an alley, the Applicant is setting back the garage entrances the required twelve (12) feet from the center alley line on the north side. However, on the west side of the Building, where there are no garage entrances, the Applicant proposes to build to the lot line in order to create a functional building. To impose each of the setback requirements in this case would result in a small structure surrounded by alcoves, which is not an ideal condition from a security standpoint,

particularly in light of the fact that the alley is also used by the Kingman Boys and Girls Club. The Project will take an underutilized property and develop an appropriate, area-sensitive use in high demand. Thus, the relief requested will not cause detriment to the public good nor will it impair the intent, purpose, or integrity of the Zone Plan.

B. Single Record Lot Relief

In establishing the burden of proof for the relief requested from requirement § 3202.3 of the Zoning Regulations, the Applicant must satisfy the requirements for an area variance as established above. In the instant case, as already addressed, the Property (i) is affected by an exceptional or extraordinary situation or condition, (ii) the strict application of the Zoning Regulations will result in a practical difficulty to the applicant, and (iii) the granting of the variance will neither cause substantial detriment to the public good nor substantially impair the intent, purpose or integrity of the Zone Plan. Palmer, 287 A.2d at 541. Related to the requirement that each building permit may be issued only for construction on a single record lot, the Applicant also meets these requirements. While the Property is part of single record lot 77, the single record lot was divided into the two Assessment and Taxation lots in 1939 as shown on the plat attached as Exhibit 10. The two lots have been owned by separate owners almost exclusively since that time³, and the owners historically have had no affiliation or connection with one another. To require strict application of 3202.3 would constrict the Applicant's development ability on his own vacant lot based upon what has already been constructed on a wholly unrelated property, which results in a practical difficulty for the Applicant. Thus, because the two lots have been treated separately for over seventy-five (75) years and have been developed entirely independent of one another, the Applicant requests relief from the requirements of

³ There was a brief period from November 22 until December 31 of 1994 when the entirety of record lot 77 was jointly owned.

3202.3 to allow construction of the Project on the Property even as it is a part of the single record lot 77. To require otherwise could preclude a structure on this lot altogether.

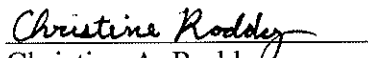
Therefore, for all the reasons stated above, the Project will not impair the intent, purpose and integrity of the Zone Plan, but will actually create positive benefits for the public good. The Applicant will work with Advisory Neighborhood Commission (“ANC”) 2F and any potentially-interested community parties to discuss the proposed Project and requested relief.

VI.

Conclusion

For all of the above reasons, the Applicant is entitled to the variance relief requested in this case.

Respectfully submitted,


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