HORSEY AND THORPE, ARCHITECTS

January 24, 2002

Ms. Sheri M. Pruitt, Secretary
Board of Zoning Adjustment
441 4th Street, NW - Suite 210
Washington, DC 20001

RECEIVED
D.C. OFFICE OF ZONING
2002 JAN 30 AM 10: 05

Re: 3207 Cathedral Avenue, NW - Application No. 16794

Dear Ms. Pruitt:

At its last hearing in which this Application was reviewed, by the Board requested further explanation as to how this proposal fulfills the the three-point hardship criteria required for a granting of the requested Variance for relief from side yard requirements for a proposed two story accessory building. We appreciate the Board's patience on this matter and hope that the post-hearing statement provided below will be sufficient.

I. Nature of Relief Sought

This statement is filed in response to the Board's request for additional information on the necessity for a variance from 11 DCMR § 2500.6, pursuant to 11 DCMR § 3103.2, to allow a non-compliant side yard. The variance is requested so that a two-story accessory structure might be built in an R-1-B District, at 3207 Cathedral Avenue, N.W. (Square 2101, Lot 3).

II. Description of the Subject Site

The subject site is part of Square 2101, which is bounded by Cathedral Street to the south, Klingle Road to the north, 34th Street to the west, and 32nd Street to the east. The neighborhood is residential. The subject site is approximately 9,525 square feet. It is improved with a single family home, a pool, a terraced garden, and a one-car garage. The house was built circa 1920 and has a distinct architectural style that contributes to the historic character of the surrounding neighborhood. Also on the property is a healthy, mature oak tree, approximately 24" in diameter, located about 12' from the garage.

III. Description of the Project

The proposed two-story accessory structure measures 21'-4" x 26'-0". It will replace the existing one-story garage, which measures 19'-8" x 22'-7". The proposed building is designed to be compatible in style and detail with the existing house. The plan is to use premium materials, such as brick, stone, and slate.

BZA
Case No. 16794
Exhibit No. 28

Board of Zoning Adjustment
District of Columbia
CASE NO.16794
EXHIBIT NO.28

The building will provide living quarters for a domestic employee. It will also be used to increase the amount of parking from one car to two. In addition, it will be used for storage, and for the pool equipment. Placement of the pool equipment in the garage avoids having to build a separate pool house.

Care has been taken to maintain architectural consistency in the site plan. The position and alignment of the proposed accessory building, the existing swimming pool, and the main house as they step down the hill help to make a cohesive relationship between the two buildings. This reinforces the historic and architectural character of the entire property.

IV. Relief Requested – Variance from Side Yard Setback Requirement

The Zoning Regulations for the R-1-B District require an 8′ side yard setback. The proposed side yard of the two-story accessory building is 4′-8″″. The existing side yard is 5′-9″″.

11 DCMR § 3104.1 allows a special exception for a non-conforming side yard on an addition to a single family dwelling. However, because this project also involves a larger accessory structure, a variance is also required. It should be noted that if the proposed accessory building were a single family dwelling, it would meet the criteria for the special exception.

V. The Application Meets the Requirements for Variance Relief Under Section 3103.2 of the Zoning Regulations

The burden of proof for area variance relief is well established. The Applicant must demonstrate: 1) that the Property is affected by an exceptional or extraordinary situation or condition, 2) that the strict application of the Zoning Regulations will result in a practical difficulty to the Applicant, and 3) that 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. As set forth below, the application meets the three-part test for area variance relief.

A. The Property is Affected by an Exceptional Situation or Condition

The D.C. Court of Appeals held in Clerics of St. Viator v. D.C. Bd. of Zoning Adjustment, 320 A.2d 291 (D.C. 1974) that the exceptional situation or condition standard goes to the "property," not just the "land"; and that "....property generally includes the permanent structures existing on the land [footnote omitted]." Id. at 293-294. The Court held that the exceptional situation standard of the variance test may be met where the required hardship inheres in the land, or the property (i.e., the building on the land). Here, an exceptional situation exists because of the relationship between the structures on the land, the pool, and the landscaping.

First, there is a large mature oak tree located about 12′ from the existing

garage. The tree is healthy, and it is enjoyed by the neighbors to the north and west. The base of the tree is approximately 30" above the existing garage floor, and its canopy extends well over both the existing and proposed roofs. The placement of the tree limits the ability to move the accessory building to the west to create a conforming side yard.

Second, there is also exceptional existing landscaping on the site. The garden is terraced, stepping up in three stages from the house to the garage. Of particular import is the topographical change between the area of the pool, and the area of the garage. At the change, the garden steps up three feet. Also, the swimming pool is in the middle of the site. This placement of the pool and the step up in the garden both limit the ability to move the accessory building to the north.

The placement and relationship of all of these elements severely limits the amount of land available for an accessory structure. Essentially, there is no where else to put the building but on the site of the existing one-car garage. There is also an exceptional situation with parking for this site. Unlike other streets in the neighborhood, Cathedral Road is limited to parking on one side of the street. The Applicants rely significantly on off-street parking due to the limited on-street parking. Having only a one-car garage limits the available off-street parking.

Also, it should be noted that most of the side yards in the neighborhood are non-conforming. Side yards of 5' or less were common at the time the neighborhood was developed. Many of the garages on neighboring properties have no side yard and are located on the property line

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

The proposed accessory building has a sloped roof to preserve architectural character. Therefore, to maintain the pitch of the roof and still comply with the 8' side yard requirement, the proposed building would have to be moved 3' to the west. This would cause immediate impact to the root zone of the oak tree, and eventual impact to the canopy.[1] Also, on the lot to the west, the existing two-story accessory structure is almost on the lot line. For privacy

1 It should also be noted that Bill 14-307, the "Urban Forest Preservation Act," now pending before the D.C. Council, requires that the "critical root zone" of mature trees be protecting during construction. While this is not yet law, it is evidence of the increasing concern in the District of Columbia for protecting important trees from the impact of construction. Furthermore, if the bill becomes law, the Addisons may be subject to its provisions, and therefore may be legally bound to protect this tree. This may contribute to both the exceptionalness and the practical difficulty of building on this site.

and light and air reasons, it would not be beneficial to set the proposed accessory building on this lot any further to the west.
Also, due to the small footprint and sloped roof of the proposed building, there is a limited floor plate on the second floor. This allows only approximately 150 square feet of living space. To make the floor plate any smaller would make the space uninhabitable.

In addition, if the footprint of the building were reduced, the Applicants would lose their ability to park two cars in the garage. The proposed garage is 21' feet wide, which allows for a 16' door, just large enough for two cars. A smaller door would allow parking for only one car. Also, a smaller building would not adequately house the pool equipment. It is in the interest of the neighborhood that there not be another structure on the property to house this equipment.

Further, an 8' setback would encroach unacceptably on the garden and pool. Due to the topographical change between the garage and the existing pool and the need, for safety reasons, for a walkway around the pool, the proposed building cannot be located any closer to the pool. Also, because of the placement of the swimming pool in the middle of the lot, the garage area is the only practical building site remaining.

Finally, if the proposed accessory building had to be set back a full 8', the relationship between the main dwelling and accessory building would be less direct, and the architectural and historic quality of the whole could be diminished. This would result in a detriment to both the owners, and the public good, both of which are served by a more cohesive and historically compatible project.

C. Relief can be Granted Without Substantial Detriment to the Public Good and Without Impairing the Intent, Purpose and Integrity of the Zone Plan

There would be no detriment to the public good, nor impairment of the zone plan, by the granting of the variance. There is neighbor support for this project, and no neighborhood opposition. Indeed, the public good would be increased by granting of the variance. Moving the accessory building to the west would affect the light and air of an adjacent two-story building on the neighboring property to the west. To make the side yard bigger would be out of character for the neighborhood, as most houses have non-conforming side yards.

Also, if the variance is granted, the mature oak tree and the landscaping would be preserved for the enjoyment of the neighbors. Maintaining architectural consistency between the main dwelling and the accessory use, and maintaining the placement of the elements on this existing property, are of benefit to the neighborhood. Finally, it should be noted that if this was an addition to a house, this structure would comply with the requirements for a

special exception. Allowing this variance is consistent with a general regulatory intent of the BZA to increase flexibility in these types of situations.

In conclusion, for all of the above reasons, we believe that the Applicants are entitled to variance relief in this case.

Thank you for your consideration.

Respectfully submitted.

Outerbridge Horsey

Outerbridge Horsey, AIA

cc: Sylvia and Christopher Addison