**PART 4.C.**
**OF THE**
**APPLICATION OF DAVID P. FRANKEL**
**FOR A SPECIAL EXCEPTION TO CREATE AN ACCESSORY APARTMENT**
**AT 4336 GARRISON STREET, N.W., WASHINGTON, D.C. 20016-4035**
**SQUARE 1655, LOT 0016**

**4.C. A detailed statement of existing and intended use of such building or part of building:**

Between us, we have lived at this property since November 1986. The existing use of our property is as a detached, single family residence for our family. Our family consists of David P. Frankel, Jana Frankel and our minor daughter, for a total of three residents.

If this application for a special exception is approved, we plan on creating an accessory apartment in one part of the basement storage area of the existing structure. No new exterior construction will be performed in connection with this accessory apartment. Rather, approximately 600 square feet of the existing basement storage area will be converted into a one bedroom, one full bath accessory apartment with a separate entrance (which already exists) from the side yard towards the rear of the west side of our house. This accessory apartment will also have a kitchen area, a washer/dryer combination, an independent electric heat pump HVAC system, a separate hot water heater, a walk-in closet, a living area, two windows (which already exist), recessed lights and a security system. It will, of course, be built to conform to all pertinent building codes.

The entrance to our proposed accessory apartment will not be visible from Garrison Street or from any other street. The front elevation of the current house will not be altered in any way to accommodate the accessory apartment. This property will continue to maintain the character and appearance of a single family detached house.

Given our proximity to the Metro and shopping, we hope to rent out this accessory unit to one tenant or perhaps to a couple. We have no pets and we will not permit our tenants to have pets.

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Board of Zoning Adjustment
District of Columbia
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**PART 4.D.**
**OF THE**
**APPLICATION OF DAVID P. FRANKEL**
**FOR A SPECIAL EXCEPTION TO CREATE AN ACCESSORY APARTMENT**
**AT 4336 GARRISON STREET, N.W., WASHINGTON, D.C. 20016-4035**
**SQUARE 1655, LOT 0016**

**4.D. A detailed statement explaining how the application meets the specific tests identified in the Zoning Regulations for variance (area and/or use), special exception or other specific relief being sought. (See Form 121 – Applicant's Burden of Proof for Variance and Special Exception Applications.)**

An accessory apartment is defined in the DC Zoning Regulations as "a complete apartment unit contained within a one-family detached dwelling. It has kitchen and bath facilities separate from the principal dwelling and may have a separate entrance." *See* Title 11, sec. 199.1. Because the exterior of our house has already been built pursuant to our existing permit (Number B445928), our proposed accessory apartment involves *only* interior work. As described below, we clearly meet each of the criteria set forth in Title 11, Section 202.10(a)-(h) for a special exception:

1. Our lot is zoned R-2 and our lot size is 6,142 square feet. The zoning regulations require that lots for accessory apartment applications that are zoned "R-2" must have a minimum lot area of 4,000 square feet, so we exceed this requirement by more than 50 percent. *See* Title 11, sec. 202.10(a).

2. The zoning regulations require that houses for which accessory apartment applications are filed have at least 2,000 square feet of gross floor area, exclusive of garage space. *See* Title 11, sec. 202.10(b). Our house has approximately 3,768 square feet of gross floor area, *not* including the attached garage (an additional 220 square feet).

3. The zoning regulations require that the accessory apartment unit may not occupy more than 25 percent of the gross floor area of the house. *See* Title 11, sec. 202.10(c). At about 600 square feet, our accessory apartment unit will occupy less than 16 percent of the gross floor area of our house. [25% of 3,768 square feet is 942 square feet – which represents the theoretical maximum square footage for an accessory apartment in our house.]

4. The zoning regulations require that the accessory apartment be created only through internal conversion of the house, without any additional lot occupancy or gross floor area and that garage space may not be converted. *See* Title 11, sec. 202.10(d). Our apartment will be created only through internal conversion of the house, without any additional lot occupancy or gross floor area, and no garage space will be converted into apartment space.

5. The zoning regulations require that if an additional entrance to the house is created, it shall not be located on a wall of the house that faces the street. *See* Title 11, sec. 202.10(e). No additional entrance to our house will be created. Our accessory apartment will use an existing side entrance to the basement that does not face the street.

6. The zoning regulations require that either the principal dwelling or accessory apartment unit must be owner-occupied. *See* Title 11, sec. 202.10(f). Our principal dwelling will remain owner occupied by us and our daughter (a total of three people). We have no plans to move anytime before we retire in 15 to 20 years. Between us, we have owned this home (and it has been David Frankel's sole residence) since November 1986 -- more than 16 years.

7. The zoning regulations require that the aggregate number of persons that may occupy the house, including the principal dwelling and the accessory apartment combined, shall not exceed six. *See* Title 11, sec. 202.10(g). The aggregate number of persons that will occupy our house, including the principal dwelling and the accessory apartment combined will not exceed six. In fact, we doubt we would ever have more than one person living in the apartment at any one time and we have no plans to add to our family, thereby keeping the aggregate number of persons occupying the house, including the accessory apartment, to four.

8. The zoning regulations require that an accessory apartment may not be added where a home occupation is already located on the premises. *See* Title 11, sec. 202.10(h). At no time during our ownership of our house has a home occupation ever been located on our premises and we have no plans to ever do so. David Frankel works for the U.S. government and Jana Frankel works in the library of a DC law firm. Neither of us have the time or inclination to run a business from our home.

We have also conducted a search of the District of Columbia Zoning Commission Orders and Board of Zoning Adjustment hearing transcripts to determine how these rules were developed and to learn how past applications for special exceptions were handled. We learned that the special exception rule for accessory apartments was promulgated unanimously by the Zoning Commission in 1993 after a lengthy rule making process. This rule had the support of the DC Commission on Aging and the DC Office of Planning as well as a variety of other interested parties, including a majority of the ANCs that submitted comments. *See* Zoning Order No. 741, Case No. 92-6 (Accessory Apartments) (Aug. 2, 1993).

We were able to identify only three Board of Zoning Adjustment public hearing transcripts during which applications for special exception accessory apartments were considered. In each of those three cases, the Board of Zoning Adjustment approved the special exceptions without any dissent. *See* BZA Public Hearing Transcript, July 23, 2002, pp. 134-44 (approving accessory apartment even where accessory apartment exceeded the 25% maximum allowance for gross floor area); BZA Public Hearing Transcript, May 29, 2002, pp. 28-82 (approving accessory apartment even where the property's lot size was less than the required 5,000 square feet for R-1-B zones); BZA Public Hearing Transcript, June 12, 2001, pp. 48-63 (approving accessory apartment).

We believe that our application for a special exception accessory apartment not only meets each of the established criteria set forth in the rules, but is at least as deserving as the three precedents previously considered by the Board of Zoning Adjustment.