Supplemental Statement
For BZA Case 17026
1326 Girard St., NW
Lot 821 (Per Sub) in Square 2860

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Analysis:

The subject property is located in the R-4 residential zone.

Pursuant to **Section 330.5(c)** of the D.C. Zoning Regulations (DCZR), the conversion of a building or other structure existing before May 12, 1958, to an apartment house, as limited by Subsections 350.4(c) and 401.3 is permitted as a matter of right. The original single family dwelling built in 1900 was converted to an apartment house in 1913 and has been used as an apartment house since that date.

With regards to lot occupancy requirements, for the R-4 residential zone, **Section 403.2**, indicated that there is no lot occupancy percentage prescribed for conversions to multi-family dwellings. However, under **Section 401.3**, 900 square feet of lot area is required for each unit established. The existing lot is 7387 square feet and, by right, may therefore encompass up to eight dwelling units. Seven dwelling units are proposed, requiring only 7200 of the available 7387 square feet.

Section 404.1 requires a 20-foot minimum rear yard setback for all structures in the R-4 zone.

Section 2101.1 requires one off-street parking space be established for each three (3) dwelling units, therefore, for seven proposed units, two spaces are required. Because street parking is limited and very difficult in this particular neighborhood, the proposed plan calls for the creation of five (5) spaces of off-street parking.

Section 2300.2(b) requires that a detached, accessory structure or garage be set back 12.0 feet from the center line of the alley. The existing two-story carriage house sets on the existing south property line, 4.0 feet from the center line of the alley. Therefore, the structure does not conform to setback requirements, but is considered to be "grandfathered".

Under **Section 2300.3**, an artist studio shall be a permitted use in either a private garage or an accessory building located in a Residential district, or in a building located on an alley lot, subject to the provisions of section2300.3 and the following criteria:

(a) Occupancy of the artist studio shall be limited to one artist and one apprentice for each four hundred fifty square feet (450 sq. ft.) of gross floor area; and,

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(b) In addition to any parking spaces that may be required under Section 2101 or other provisions of this title, parking for the studio use shall be provided at the rate of one (1) parking space for each three (3) occupants of the space.

The existing carriage house consists of 1400 square feet of gross floor area. This amount of floor space would allow for three (3) artists and studios and three (3) apprentices to occupy the premises. Additionally, this use provides that the artist may also use the space as a residence. These artist studios are a more intense use of the property than the proposed use as one residence unit.

Uniqueness and Practical Difficulty:

This property is unique in this area due to the date of construction in 1900. The structure was originally built as single-family dwelling with a detached two-story carriage house and covered stable at the rear of the property. The rear of the carriage house sets on the south property line, the rear lot line. Under the current Zoning regulations, a detached structure must set 12 feet from the centerline of the alley. Because the alley was formed after the original construction of the carriage house on the original lot, the carriage house only sets 4.0 feet from the centerline of the alley. The carriage house has only one front door- there is no second means of egress for the carriage house. The proposed construction plans would link the detached accessory structure to the primary structure with a two story deck addition at the rear of the existing apartment house and a one story carport with a deck above. The one story carport/deck structure will require a rear yard variance of the 20 foot setback provision under Section 404 of the DCZR. Additionally, the DC government has taken a section of 8 feet deep by 18 feet wide of the original lot length of the rear yard for the "public good" for widening of the public alley, thus depriving the property owner of eight (8) feet of rear yard depth.

The difficulty created by location and other aspects prior to the adoption of the DCZR on May 12, 1958, are valid considerations for the BZA in determining practical difficulties faced by the applicant. "It makes no practical difference whether the inability to use the property in accordance with the zoning regulations stem from topographical conditions of the land or from the existence of a structure on the land." Cited: Clerics of St. Viotor, Inc. versus DC BZA, 320 A.2d 291, 294.

As proposed, the plan creates a viable means of second egress from the carriage house second floor while retaining the beneficial use of the carport area below the deck for two spaces of alley access offstreet parking. Construction of life safety egress stairs on the east side or the south (alley side) of the structure are not permitted because they would encroach on both private and public space. Construction of the stairs on the west side of the carriage house without the deck/ carport structure would eliminate one of the spaces of parking. Further, construction in the front or north side of the carriage house would also eliminate one parking space and adversely impact the preserved street facing façade of the carriage house. By creating a deck space above the carport, two spaces of offstreet

parking are created, a safe second egress is provided, and amenity space- for which the rear yard setback requirement was established to protect- has been preserved. By siting the proposed carport/ deck structure at the rear of the building between the existing carriage house and the existing neighbor's one story garage, there is no intrusion on neighboring property air, light, ventilation, or views, Further, this location is not visible from the street, therefore, also preserves the streetscape.

Owing to the unique size of the carriage house, the rear lot line configuration, the life safety necessity of a second means of egress, enhanced residential recreation space, natural light and air ventilation, and, modernization and upgrading of the structure, the applicant incurs undue hardship with the strict application of the zoning codes.

Under the current situation, the only economically viable use for the carriage house is as an artist studio which will be more intense, with multiple artists and apprentices, than with the proposed one residential unit. One residential unit is the "highest and best" use for the structure. With respect to practical difficulties, the higher " undue hardship" standard applies to a request for a use variance, while the lower standard " practical difficulty" applies to request for area variances. Cited: Gilmartin, 579 A.2d at 1170; Palmer Vs. DC, 287 A.2d 535, 540-41, (DC 1972).

An area variance relates to restrictions such as floor area ratio, percentage of lot occupancy, rear yard setbacks, side yard setbacks, height, minimum lot area and lot width requirements, and does not alter the zone district. Palmer, 579 A.2d at 541; see Tyler v. DC BZA 606 A.2d 1362, 1365-66 (DC 1992).

To show practical difficulty, the applicant must prove that compliance with an area restriction would be burdensome and that the practical difficulty is unique to the particular piece of property. Gilmartin, 579 A.2d at 1170. The nature and the extent of the burden are determined on a case by case basis, and the BZA may consider a wide range of factors in determining whether an unnecessary burden or practical difficulty is relevant. ID 1170.

Applying for and granting of a "use variance" for the carriage house would not eliminate the zoning requirement of the necessary rear yard setback. In fact, the property would then still need a variance from the rear yard setback not only to construct the carport but now also for the "new use" (residential) for the carriage house. The application for and granting of the requested 100% rear yard variance is the controlling argument. The secondary issue of "use change" becomes moot, as the proposed plan for the structure will create one building and the "residential use" is then granted by right.

The BZA may consider the economic hardship in the evaluation of an applicant's practical difficulties, and in where the strict compliance with the regulations would result in a substantial cost of construction plus a significant limitation in the property's overall utility. ID; see Tyler, 606 A.2d at 1366-67. Using the two story carriage house as an artist studio will limit the marketability and renovation of the structure.

A survey of the rear of properties from Fairmont St., NW, to Harvard St. NW, bounded by 13th and 14th streets NW, indicates that Mr. Schortinghouse has the only two story carriage house remaining from the initial date of construction in 1900, which makes the property unique. Because of the fine condition of this carriage house, and preserving its street facing façade intact, the urban architecture of the cityscape is enhanced.

Detriment to the Public Good:

The rear yard variance requested will not adversely impact the light, air and ventilation or the views from existing, neighboring structures. The granting of the area variance will not substantially impair the intent, purpose, and integrity of the zone plan. The public good and integrity of the zone plan are additionally protected by the ANC review and written approval and a neighborhood review of the proposed project that the applicant has undergone. The applicant has submitted twelve letters of support from immediate neighbors, including all those neighboring properties contiguous with the proposed carport/deck, and one letter of support from the Honorable Councilman Jim Graham. The proposed addition and renovations will benefit the neighborhood by upgrading existing structures and a preserving a unique structure while also benefiting the District of Columbia from the improved utilization of the property with a favorable impact on tax revenue and the return and provision of seven residential units with more that required off-street parking to the market with light, safety and residential recreation space enhancements. The proposed additions and renovations are necessary to improve the economic feasibility of the project, and in addition, are necessary to stimulate the rehabilitation of housing units and to provide incentives for needed housing in the Columbia Heights area. The Generalized Land Use Map for the District of Columbia designates the subject property and the surrounding area as " Moderate Density" residential characterized by row houses and apartments as predominant uses.

The proposed project is in keeping with the "Generalized Land Use Map", the Ward Plan for DC, will strengthen and enhance the physical character of the Columbia Heights neighborhood by preserving existing structures, create additional spaces of badly needed offstreet parking, and is in keeping with the Mayor's initiative to create more residential housing and increase the District's tax base.

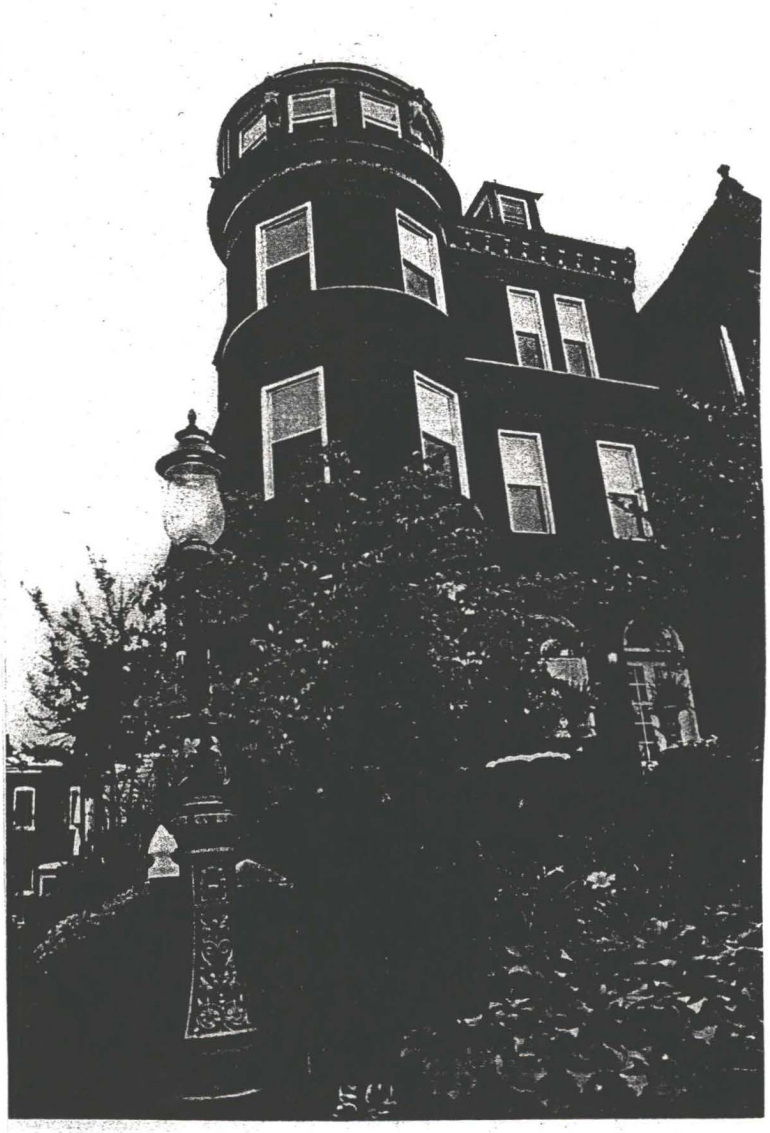
Therefore, the applicant respectfully appeals to the BZA to approve a rear yard variance for Section 404.1 in order to apply for a building permit.

Gladys Hicks 7/1/03

Gladys Hicks, Zoning Consultant Date

William F. Schortinghouse 1 July 03

William Schortinghouse, Owner Date



FRONT VIEW

Exhibit # A"

EXISTING CARRIAGE HOUSE "B"

AREA WHERE NEW CARPORT/DECK WILL BE SITED

THIS WALL ALIGNS WITH NEIGHBORING



CARRIAGE HOUSE IS FULLY ACCESSIBLE FROM STREET VIA PRIVATE 8' WIDE DRIVEWAY



EXHIBIT "C" SIDE OF CARRIAGE HOUSE AND EXISTING REAR YARD.

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