STATEMENT OF EXISTING AND INTENDED USE AND STATEMENT OF SATISFACTION OF APPLICANT'S BURDEN OF PROOF FOR SPECIAL EXCEPTION

Application of Dwight Sterling

This statement is of the existing and intended improvement of the building and an explanation as to the manner in which the application ("Application") of Dwight Sterling meets the specific tests and burden of proof identified in the Zoning Regulations for a special exception. This Statement is submitted on behalf of Dwight Sterling by his attorney, Kass, Mitek & Kass, PLLC by Richard P. Schmitt, Esquire.

Summary of Application. The Application seeks a special exception pursuant to Sections 3104.1 and 223 of the Zoning Regulations to seek the enclosing and enlargement of a porch on the front and side to a dwelling not meeting Section 405 in an R-2 district at premises, 4311 Brandywine Street, N.W. (Square 1049, Lot 0820) (the "Property").

This application concerns one porch across most of the front of the dwelling which wraps around the east side for approximately 12 ft. That 12 feet is not compliant with the side yard requirement. The enclosure and addition to the porch will not increase the non-conformity in any respect. The addition to the porch will be on the side closest to the attached house with a vestibule on the front of the dwelling.

Existing Zoning Authority. The Property is a single family semi-detached house built in approximately 1925. The Property has lot dimensions of 25.00 feet wide and 100.00 feet deep giving a lot area of 2,500 square feet.[1] A public alley, 15 feet wide, runs east-west behind the Property. The Property is zoned R-2. The attached single family dwelling is to the west. There is a side yard to the east of the Applicant's building. The depth of the east side yard is 7' (seven feet) for most of the length of the building except the east side of the front porch protrudes. The side yard is reduced to 2' 11" (two feet, eleven inches) from the east property line. The existing unenclosed front porch runs slightly less than the width of the applicant's building with a small portion of the porch extending 4'1" beyond the east wall of the dwelling. The minimum allowable side yard depth under the Code is 8' (eight feet). Section 405.9 or five feet if the pre-code construction was less than 8' (eight feet).

Existing and Intended Use. The Applicant requests the above-referenced relief to allow for the enclosing and enlargement of the front porch of his semi-detached dwelling or house to modernize the dwelling and to accommodate his family's needs for more interior living space. The house presently has an unenclosed one-story porch on the front of the house. The east side of the house is 7 feet from the east property line. The existing unenclosed porch is 2' 11" from

[1] The lot is non-compliant because in an R-2 district the minimum required lot width is 30 feet and minimum lot area is 3,000 sq. ft. Section 401.3.

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the east property line as it is slightly wider than the house. The semi-detached dwelling has a non-confirming side yard on its east side. The front porch has a greater non-conformity because it is only 2.'11" from the east side lot line. The porch is not of recent construction and is presumed to have been built at the same time as the building. In fact the house at 4317 Brandywine Street, NW appears to be identical to the applicant's dwelling except the porch area has been enclosed. A photo of that enclosed porch is included with this petition.

As a matter of right, the lot occupancy of a semi-detached house in a R-2 district may be up to forty percent (40%) (See Sec. 403.2) . Applicant's plans involve the replacement of the existing one-story front porch with a slightly wider one-story enclosed area enlarging the living room The width of the enclosed porch will be extended to the west and a entrance vestibule to the south, towards Brandywine Street, will be added. There will be a small change in the roof line over the enclosed porch.. The east side yard non-conformity will not be enlarged or extended by the proposed enclosure of the porch. (See Self-Certification). The proposed construction will not create or enlarge any other nonconformity. The resulting lot occupancy will be thirty-eight and four-tenths percent. (38.4%), which is less than the permitted 40% lot occupancy. The computed lot occupancy includes the vestibule.

Statement of Satisfaction of Burden of Proof for Zoning Relief Sought. The Applicant submits that, based upon its Application and the materials submitted in conjunction therewith, the evidence to be presented at the public hearing and other evidence to be submitted subsequent hereto, it will satisfy and comply with the applicable legal standards and burdens of proof for a special exception.

Specifically, the Application submitted by Dwight Sterling will satisfy the requirements of Section 3104.1 of the Zoning Regulations that require 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 affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps... ."

In addition, the Application will comply with the requirements of Section 223 of the Zoning Regulations. That section requires that the proposed addition "shall not have a substantially adverse affect on the use or enjoyment of any abutting or adjacent dwelling or property" (223.2). In particular, the "light and air available to neighboring properties shall not be unduly affected" (223.2(a)); "[t]he privacy of use and enjoyment of neighboring properties shall not be unduly comprised" (223.2(b)); and "[t]he addition, together with the original building, 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 frontage" (223.2(c)).

Compliance with the above conditions is demonstrated with the plans, drawings and photographs accompanying this Application. Furthermore, Section 223.3 requires that the lot occupancy of the dwelling, together with the addition, not exceed forty percent (40%) in the R-2 District.

The proposed enclosure/addition will not intrude on the depth of the side yard more than the present front porch. The house to the east, 4307/9 Brandywine Street, N.W. is at least 8 feet away from the common property line. There is one window in the west wall of the house to the east. There is no door or pathway. There is a heat pump in the side yard. Thus, there is adequate physical separation between the enclosed porch to the property on the east side, avoiding any affect on the availability of light and air. (See front and rear as well as aerial photographs of the applicant's house and adjacent building to the east.) Additionally, the increase in the width of the addition will not effect the privacy and enjoyment of the neighboring property to the east because the increase is on the west portion of the front of the house. That is away from the house to the east.. The small extension, vestibule, to the south is adjacent to the west property line. The enclosure/addition will be no closer to 4307/9 the house to the east, than the unenclosed porch is at the present time.

When viewed from Brandywine Street, N.W., the enclosed addition will not look any larger than the existing porch. The addition will not appear to intrude on the depth of the side yard any more than the existing porch. The dwelling with the new addition, will be consistent in character, scale and pattern with the other houses in the neighborhood. See photograph of 4317 Brandywine Street, NW for a house with an enclosed porch similar to the proposed construction

The north elevation, the view from the alley on the north side of the Property, will not be significantly changed as an existing chimney blocks most of the view from the north side. (Photograph enclosed)

An addition to the rear of the house could be made. However, because the rear yard requirement in an R-2 zone is 25 feet, Section 404.1, an addition of only ten feet could be built to the north. However, to keep within the maximum lot occupancy, Section 403.1 , an addition extending the width of the building could be no deeper than 4 feet. Adding only a small amount of structure to the front of the house is more desirable as it is the most practical way to add to living space.

In addition to the Site Plan, Floor Plans, Elevations and site photographs submitted to the Board with the Application, the Applicant has also submitted excerpts from the Sanborne Building and Property Atlas of the District of Columbia, Exhibit "B", showing the subject property and its relationship to the adjoining properties. Applicant has also included aerial photographs of the two houses showing the separation.

As proposed, the lot occupancy with the enlarged addition will be thirty-eight and four-tenths percent (38.4%) which is less than the maximum of forty percent (40%) complying with the standard imposed in a R-2 zone pursuant to Section . The nonconformity of the side yard will not be increased. Moreover, the addition has been designed in such a way to respect their neighbors and the character of the neighborhood. The addition will have windows facing the east, the windows are less intrusive than the existing open porch.

The proposed addition will not have any adverse impacts on the neighborhood and is supported by the community. Furthermore, the Application is consistent with the purpose and intent of the Zoning Regulations and the R-2 zoning of the Property in that the lot occupancy is within the allowed limits..

Conclusion. For the reasons set forth above, Dwight Sterling, by and through counsel, submit that his Application has satisfied (and will satisfy) all applicable zoning requirements and the requisite burden of proof and, therefore, should be granted.

EXHIBITS

Completed Application form (B.A. Form 120);

1. Letter of Authorization from Applicant;
2. Self Certification as to Zoning (Form 135);
3. Office of the Surveyor's Plat with the improvements shown thereon;
4. List (together with mailing labels) of property owners within 200 feet of the subject property;
5. Site photographs from front and rear.
6. Photograph of 4317 Brandywine Street, NW
7. Aerial Site photographs of the subject property and adjacent building obtained from the Office of Zoning's electronically stored zoning map.
8. Architectural plans, elevations and drawing for the enclosure and roof line.

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