GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Andrew Altman, Director

DATE: July 20, 2004

SUBJECT: BZA Application #17199
Application of Benjamin & Louise Goddard
Square 242, Lot 79 – 1310 Rhode Island Ave., NW
Variance for Addition to Non-conforming Structure (11DCMR §2001.3)

I. APPLICATION SUMMARY

The applicants wish to construct a one-story rear addition to a three-unit apartment building in an R-5-B zone. The applicant is asking the Board of Zoning Adjustment (the BZA or the Board) to approve its request for multiple area variances.

Specifically, the applicant is requesting four variances from 11DCMR:

- A variance from the floor area ratio requirements under §402.4;
- A variance from §403.2 for the maximum lot occupancy;
- A variance from §406.1 for the minimum width of an open court;
- A variance from §2001.3 to allow construction of an addition to an existing non-conforming structure that increases the structure's non-conformity (with respect to FAR, lot occupancy, and open court requirements).

The 19th century apartment building, which is a converted townhouse, already exceeds its permitted lot occupancy and FAR and has an open court less than is required. The main structure has an existing one-story rear addition. This would be demolished and replaced with a reconfigured, slightly larger addition.

The relief is being sought under §3103.2 of the Zoning Regulations.

II. OFFICE OF PLANNING SUMMARY RECOMMENDATION

The Office of Planning (OP) recommends the Board approve the request for a variance from the open court dimensions of §406.1 and the request for a variance from §2001.3 to permit the addition, provided the addition is constructed in a way that it does not require a FAR variance from §402.4, or a lot occupancy variance from §406.1.

BZA
Case No. 17199
Exhibit No. 28

Board of Zoning Adjustment
District of Columbia
CASE NO. 17199
EXHIBIT NO. 28

III. SITE AND AREA DESCRIPTION *(See Attachments 1 and 2)*

Square 242 in Logan Circle neighborhood of northwest Washington is bounded by:

- North: Rhode Island Avenue — East: Logan Circle
- South: Vermont Avenue — West: 14th Street.

The Square is triangular shape. The buildings are served by an east-west alley that has entrances on Rhode Island and Vermont Avenues.

Lot 79 is on the south side of Rhode Island Avenue, in mid-block. It is 17 feet wide and is generally rectangular, with the east side measuring 87 feet and the west side measuring 93.67 feet. It is served by the alley.

The existing structure is a 4,148 square foot apartment building that functions above-grade as an approximately 3,000 square foot, three story, rowhouse-type unit; and below grade as two apartments dividing approximately 1,000 square feet. The three-story structure is built to the front property line and occupies the full width of the property to a depth of 50.5 feet from the front. Beyond the rear wall of the main building is a one story brick addition that is 8 feet wide and 9.5 feet long, plus an enclosed porch of the same width and approximately 8.5 foot depth.

As noted, the existing lower level contains two apartments. For the upper unit, the second and third floors each have two bedrooms and one bathroom. The fourth floor of the upper unit is a single room, and a terrace.

The first floor of the upper unit, contains a living room and foyer, dining room and stair landing, a kitchen and half-bath. To the rear of the principal structure, there is a one-story brick pantry and a screen porch. The back yard also contains a small deck and a parking area. The applicant states that the dining area is unusual in having an approximately five-foot by seven-foot light well above it. The light well provides an interior open space from the first floor to the roof.

The exteriors of adjacent structures as well as those across the rear alley are similar-appearing rowhouse-type structures. Several of them also are classified as apartment buildings; others contain institutional uses. Most of the nearby structures are on larger lots. Most have similar rear additions, and some of these additions are larger than what the applicant has now and what the applicant is proposing.

Despite the similarities to nearby properties, the applicants' 17-foot wide property is, however, at least four feet narrower than any other property on the Square, with the exception of the 17-foot wide lot that is adjacent to the applicants' property, to the east.

IV. AREA ZONING AND HISTORIC DISTRICTS *(See Attachment 2)*

The site is zoned R-5-B, as is most of the surrounding neighborhood. The structure is within the Logan Circle Historic District, and is a contributing structure.

V. PROJECT DESCRIPTION

The applicants wish to remove the existing 144 square foot pantry and screen porch, as well as a small existing deck that does not count towards lot occupancy or FAR. They wish to construct a new 209 square foot wheelchair-accessible kitchen, and replace the rear deck. The applicants also plan to remodel the existing kitchen into an area for a relocated dining room, and replace the existing half-bath with a new, relocated, handicapped-accessible half bath. It is the applicants' stated intention also to install a wheelchair-accessible elevator within the 5' by 7' interior light well that extends upward from the existing dining room to the roof, and to install a wheelchair lift between the parking area and the rear deck.

Of the above-noted construction, only the proposed new kitchen addition is part of the present application.

VI. RELATIONSHIP OF THE APPLICATION TO THE COMPREHENSIVE PLAN *(See Attachment 2)*

The Comprehensive Plan's Generalized Land Use Map designates the area for Medium Density Residential Land Use. The addition would maintain the property as a moderate density apartment house. This is not inconsistent with the generalized land use map, and is consistent with the Ward 2 element of the Comprehensive Plan's emphasis on the retention of housing in the ring of land surrounding the central employment area.

VII. DOES THE APPLICATION MEET THE TESTS FOR THE REQUESTED ZONING RELIEF?

The applicant is requesting multiple area variances on a 1,536 square foot lot. These relief requests are summarized in the following table. The table is calculated from information supplied by the applicant.

The application is self-certified.

Type of Relief	Permitted or Required as Matter of Right	Existing Structure	Proposed	Degree of Relief Requested
FAR , §402.4	1.8 (2,765 sf)	2.7 (4,148 sf)	2.74 (4,213 sf)	0.04 increase from existing non-conformity, for total of 0.94 over permitted lot occupancy

Lot Occupancy, §403.2	60% (998 sf)	65% (998 sf)	69% (1063 sf)	4.0% increase from existing non-conformity, for total of 9% over permitted lot occupancy
Open Court, §406.1	10' min. width;	8.8'width; 9.0' depth';	4.0 width 16.6'depth	48%'increase in non-conformity, for total of 60% less court width than required.
Addition to Non-Conforming Structure, §2001.3	§2001.2 permits enlargements/additions to non-conforming structures if they constitute ordinary repairs, alterations, and modernization, and structural alterations if required by code.	Non-conforming for FAR, Lot Occupancy, Open Court)	Extends FAR, Lot Occupancy and Open Court Non-Conformity	See. Above. Note that applicant's intention is to increase conformity with ADA accessibility standards

Variance Tests

A. Lot Occupancy and FAR Variance Tests

OP has analyzed these variance requests together because their analyses are so similar.

- *Uniqueness: Is the property exceptionally narrow, shallow, of a shape or with topography, or possessing of other extraordinary or exceptional situations or conditions of the specific piece of property that make it unique?*

The 17-foot lot is narrower than all but one other lot in the Square. The width of the lot may speak positively to the request for the open court width variance (see below), especially in relation to the applicant's desires to make the principal unit at least partially handicapped-accessible.

The property is in an historic district, but the conditions confronted by being in the district are the same as those faced by many similar properties in the historic district. Exterior issues, which are governed by historic review, include having to locate handicapped accessibility, if it is desired, from the rear or side of the building rather than from the front. The property has alley access and a relatively minor change in elevation between the rear parking space and the level of the main floor. Handicapped access can be accommodated from the rear with modifications to the existing structure.

However, absent consideration of handicapped needs, there is no aspect of the lot that is unique. It is generally flat, rectangular, 1500 square foot lot with a general depth of approximately 90 feet. The only possibly unusual condition is the 17-foot width, and that

would only pertain to side-to-side dimensions such as court width. (See discussion below).

In OP's opinion the applicant has not demonstrated that there is a condition of the lot or the structure that meets the uniqueness test with respect to justifying an increase in the already non-conforming FAR or lot occupancy.

- *Practical Difficulties or Hardship: Would there be "practical difficulties" that would be "unnecessarily burdensome" and impose "undue hardship to the Applicant" that result from the strict application of the Zoning Regulations?*

OP does not believe the applicants have demonstrated practical difficulties, with respect to FAR and lot occupancy.

The applicants have submitted two sets of plans to OP that accommodate the applicants' desires to make the upper unit in the building (i.e., the principal unit that constitutes the four above grade floors of the building) at least partially handicapped accessible, while respecting the requirements of the historic district. The first plans were submitted to the BZA with the application and are the same as those now under consideration. They include the modest increases in FAR and lot occupancy non-conformity shown in the table on the previous page. The second set of plans was submitted to OP only, in response to concerns OP had expressed about the FAR and lot occupancy changes. They also appeared to meet the same handicapped-accessibility desires of the applicant, but they did so without increasing FAR or lot occupancy non-conformity. The applicant later withdrew these plans from consideration.

Both sets of plans accommodate wheelchairs through doorways and hallways and both allow for a new wheelchair-accessible kitchen and for a lift between the parking area and the rear deck. Both sets of plans enable the relocation of the dining room into the existing kitchen area in order to accommodate the proposed elevator in the existing dining room's light well. This elevator would enable handicapped access between the approximately 1000 square feet on the first level of the principal unit, and the over 2000 square feet of living space on the second through fourth floors of the principal unit

In OP's opinion, the applicant could reconstruct the addition in a manner that would provide the requested access and not increase the existing non-conformities. OP concludes that the applicant has not yet demonstrated a practical difficulty that requires variances for more lot occupancy and FAR.

- *Can The Relief Be Granted Without Substantial Detriment to the Public Good and Without Substantially Impairing the Intent, Purpose and Integrity of the Zone Plan as Embodied in the Zoning Regulations and Map?*

OP does not believe the requested FAR and lot occupancy variances would cause substantial detriment to the public good. The proposed one-story addition is similar in height to the existing structure and is does not extend as close to the rear property line as

the existing structure. It would not likely have any impact on adjacent or nearby properties.

However, OP believes that granting the relief would substantially impair the intent, purpose and integrity of the zone plan and zoning regulations. The applicants' have not demonstrated that there would be practical difficulties or hardship in accommodating handicapped access and reasonable living arrangements in a design that does not increase the FAR or lot occupancy. OP believes that the variances result from the applicants' essentially *preferring* one design over another. It just happens that the applicants' preference is for the design that increases FAR and lot occupancy, albeit to a relatively small extent. OP believes that the integrity of the zoning regulations would be substantially impaired by granting variances for preferences, not for demonstrated uniqueness and practical difficulty or hardship.

As noted below, OP believes that some of the other requested variances meet the required tests.

B. Court Width Variance Tests:

- *Uniqueness: Is the property exceptionally narrow, shallow, of a shape or with topography, or possessing of other extraordinary or exceptional situations or conditions of the specific piece of property that make it unique?*

The lot is 17 feet wide. Only one other lot in the Square is that narrow – the lot immediately to the east. Other lots in the Square are generally 21 to 24 feet wide, but no narrower than 20.79 feet wide. OP believes the applicant has demonstrated that the property meets the uniqueness test, particularly in the context of providing handicapped access. This is discussed further below.

- *Practical Difficulties or Hardship: Would there be "practical difficulties" that would be "unnecessarily burdensome" and impose "undue hardship to the Applicant" that result from the strict application of the Zoning Regulations?*

OP believes the applicant has demonstrated there would be practical difficulties or hardship. The wider rear is integral to the overall renovation of the first floor, in order to make the upper level unit handicapped accessible. Without an addition wide enough to accommodate a wheelchair, the plan for handicapped access is seriously compromised.

Although the main part of the building – the four-story part -- is 17 feet wide, the existing one-story rear addition is just over 8' wide. This addition is non-conforming, but its construction pre-dates 1959. Currently, the kitchen is in the 17-foot wide portion of the structure and a pantry and screened porch are in the addition. To enable general accessibility changes on the ground floor, the applicant wishes to relocate the existing kitchen to the approximate area now occupied by the pantry and porch. OP believes the applicant has demonstrated that it is not possible to accommodate a wheelchair (36" to 48") and a practical kitchen with double loaded counters (36" each) within 8 feet.

It is not possible to construct handicapped access at the eastern edge of the main, three-story building without interfering with light and access to the lower-level apartments. It is, therefore, necessary to construct an addition that is wider than the existing addition, but less than the full-lot width that would obviate the need for a court-width requirement. OP believes the applicant has demonstrated that it would impose a practical difficulty or hardship not to grant the requested relief to increase the non-conformity of the open-court width.

- *Can The Relief Be Granted Without Substantial Detriment to the Public Good and Without Substantially Impairing the Intent, Purpose and Integrity of the Zone Plan as Embodied in the Zoning Regulations and Map?*

It can. There would be no impact on adjacent or nearby properties, and the applicant has provided a straightforward demonstration of how it meets the tests for a court width variance. In OP's opinion the 4'8" reduction in the width of the non-conforming court would have no impact on the public good, the zone plan, or the regulations. .

B. **Enlargement or Addition to a Non-Conforming Structure With Conforming Uses Variances**

The applicant is requesting a variance from 11 DCMR Section 2001.3:

- *Enlargements or additions may be made to the structure* [in this case, an addition to a non-conforming structure with a conforming use]; *Provided, that the following requirements shall be met:*
  (a) The structure shall conform to percentage of lot occupancy requirements; and
  (b) The addition or enlargement shall itself conform to use and structure requirements; and;
  (c) The addition or enlargement itself shall not increase or extend any existing nonconforming aspect of the structure, and shall not create any new nonconformity of structure and addition combined.

The proposed addition would be an enlargement that would:

1. Increase FAR by 0.04, for a total non-conformity of .94 FAR over the permitted 1.8 FAR.
2. Increase the lot occupancy by 65 square feet: a 4% increase for a total non-conformity of 9% over the permitted 60% lot occupancy.
3. Increase the open court non-conformity by 4'8": a 48% increase for a total non-conformity of 60%.

In analyzing this variance request, OP has distinguished between an addition and an enlargement.

- *Uniqueness: With respect to exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situations or conditions of the specific piece of property:*

OP believes the applicants have partially met this test.

As noted in the FAR and lot occupancy discussion above, the property is unusual only with respect to its width, not with respect to its size or topography or historic status. At 17 feet wide, it is, however, one foot narrower than what would currently be considered a standard lot size.

- *Practical Difficulties: With respect to the "Practical Difficulties" that would be "unnecessarily burdensome" and impose Undue Hardship to the Applicant should the application for a variance allowing the addition of a conforming use to a non-conforming structure not be approved:*

OP believes the applicant meets these tests with respect to an addition, but does not meet the tests with respect to an enlargement.

As noted above, the applicant could achieve handicapped access without compromising the upper unit's functionality by constructing an addition that, while differently dimensioned, would be no larger than the existing non-conforming structure.

The proposed design may be preferable to the applicant, as opposed to the alternative design shown to OP. However, in OP's opinion, the applicant has succeeded in demonstrating only that the strict application of the Zoning Regulations with respect to an addition, rather than an enlargement, would result in a practical difficulty that could not be resolved through other design solutions.

- *Can The Relief Be Granted Without Substantial Detriment to the Public Good and Without Substantially Impairing the Intent, Purpose and Integrity of the Zone Plan as Embodied in the Zoning Regulations and Map?*

The addition would not have substantial detrimental impact on the public good.

However, the intent of §2001.3 is to avoid increasing the lot occupancy or density of buildings that already do not conform to the 1958 Zoning Regulations. OP believes that the addition before the BZA, would be convenient for the applicants', would be attractive, and is acceptable to nearby property owners (see below). In OP's opinion, the applicant has demonstrated that it is necessary to reconfigure the addition, and make it wider, and less conforming with the open court requirements, in order to achieve handicapped accessibility. However, because the applicant has not demonstrated it is not

possible to reasonable accomplish this without increasing the FAR non-conformity and the lot occupancy non-conformity, it is OP's opinion that granting relief for the addition, as presently designed, would impair the integrity of the zone plan.

VIII. COMMUNITY COMMENTS

The applicant has submitted letters of support from both adjacent neighbors and the neighbor immediately behind and across the alley.

There was no letter from ANC 2F on file with the BZA as of July 12, 2004.

X. OTHER AGENCY COMMENTS

There are no other agency comments on file.

XI. OP RECOMMENDATION

The Office of Planning (OP) recommends the Board:

- Approve the request for a variance from the open court dimensions of §406.1; and
- Approve the request for a variance from §2001.3 to permit the addition, provided the addition is constructed in a way that it does not require a FAR variance from §402.4 or a lot occupancy variance from §406.1

AA/slc

Attachments



N

Feet

0 20 40 60

Government of the
District of Columbia
Anthony A. Williams, Mayor

Office of Planning ~ July 13, 2004

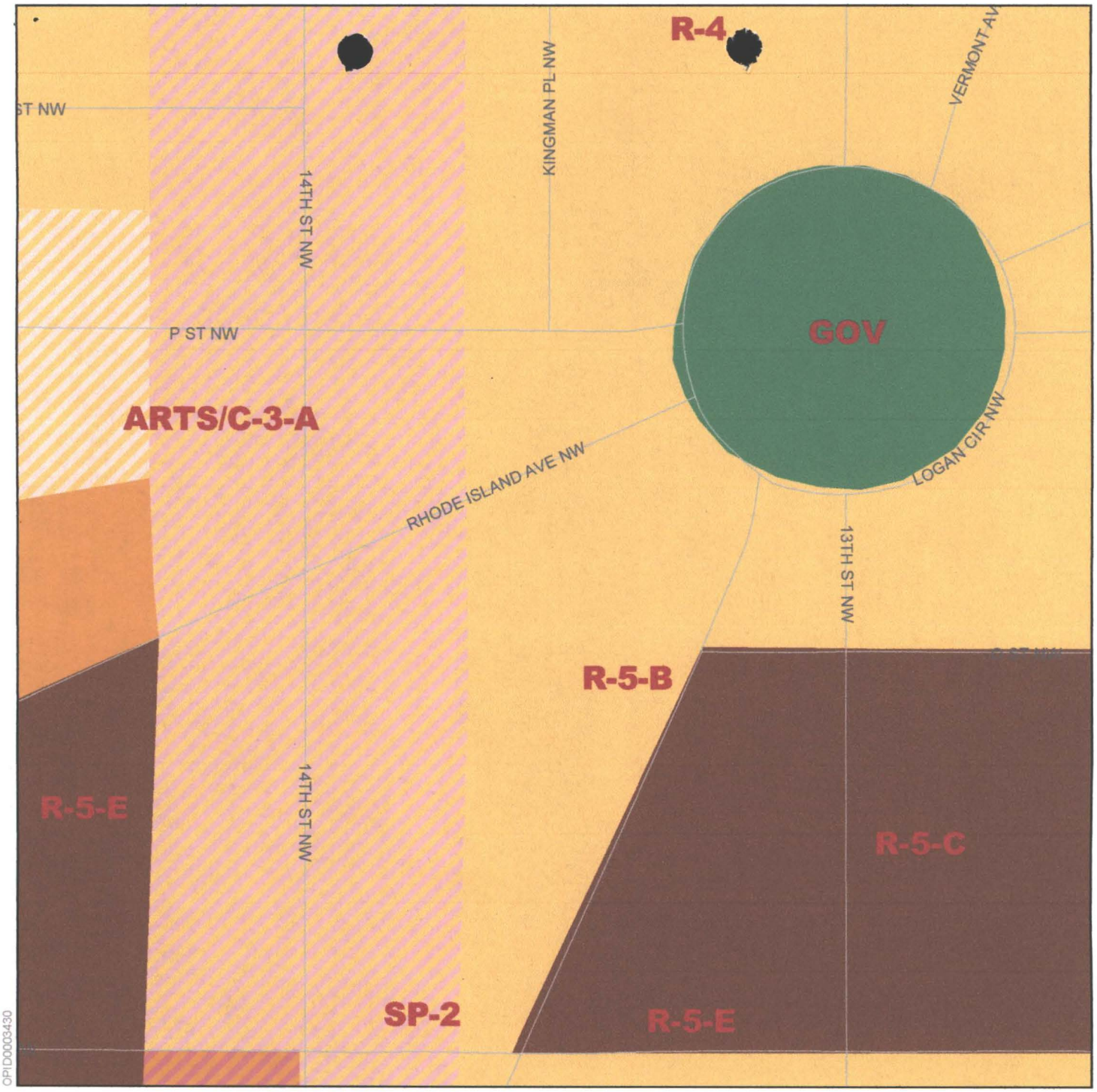
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Legend

BZA Case # 17199
Square 242, Lot 79
1310 Rhode Islance Avenue, NW

Location of Site

Attachment 1



BZA Case # 17199
Square 242, Lot 79
1310 Rhode Islance Avenue, NW

Generalized Land Use Map

N

Feet
0 100 200

★ ★ ★ **Government of the District of Columbia**
Anthony A. Williams, Mayor

Office of Planning ~ July 13, 2004

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Legend

- Residential-Low Density
- Residential-Moderate Density
- Residential-Medium Density
- Residential-High Density
- Commercial-Low Density
- Commercial-Moderate Density
- Commercial-Medium Density
- Commercial-Medium-High Density
- Commercial-High Density
- Institutional
- Federal
- Local Public Facilities
- Parks, Recreation, and Open Space
- Production and Technical Employment
- Mixed Use

Attachment 2