GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

**MEMORANDUM**

**TO:** Board of Zoning Adjustment of the District of Columbia

**FROM:** Ellen M. McCarthy
Director

**DATE:** June 27, 2005

**SUBJECT:** BZA Application 17344 - Request filed by Bruce Preston for a **special exception** to permit a building addition to a flat for 3324 Highland Place, N.W., proposed by Anne Luzzatto

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**APPLICATION**
Application of Anne Luzzatto for:

> **Special exception relief pursuant to § 223 of Title 11 DCMR** to permit the construction of a building addition to an existing garage to a flat within the R-1-B Zone District

for property located on the south side of Highland Place and the north side of Newark Street, N.W., between 33rd Place and 34th Street, Square 2075, Lot 37.

**SUMMARY RECOMMENDATION**
The Office of Planning, on consultation with the Acting Zoning Administrator, has determined that the subject application is not eligible for relief under Section 223 because the existing use, a flat, is nonconforming within the R-1-B Zone District. Section 223.5 states that *"[t]his section may not be used to permit the introduction or the expansion of a nonconforming use."* The proposed expansion of the garage would constitute the expansion of a nonconforming use. As a result, the Office of Planning has reviewed this application as a variance, requiring relief from the following:

1. Section 405.9, reducing the minimum width of a side yard from 8 feet to 3.2 feet; and
2. Section 2002.5, to permit the enlargement of a nonconforming use.

The Office of Planning recommends **APPROVAL** the proposal as a variance application, with the condition that no windows or openings be provided on the east wall of the addition.

BZA
Case No. 17344
Exhibit No. 22

Board of Zoning Adjustment
District of Columbia
CASE NO. 17344
EXHIBIT NO. 22

**AMENDED REQUEST**

The applicant proposes to convert the existing one-car garage to an artist's studio and expand the length of the structure toward Highland Place. The garage is located 3.5 feet off the side lot line, less than the minimum 8 feet required, and the same distance of the proposed addition. Therefore, a variance to side yard is required. A variance is also required of Section 2002.5 because a flat is a nonconforming use within the R-1-B Zone District.

The applicant also proposes the creation of two pad parking spaces for each unit, accessible from Highland Place.

**SITE AND AREA DESCRIPTION**

The property consists of Lot 37 of Square 2075, in the North West quadrant of the District. It is 8,330 square feet in area, has a minimum lot width of 62.5 feet, and is improved with a two-story flat constructed in 1906, prior to the adoption of the Zoning Regulations. The subject property contains two frontages, one along the north side and the other along the south, with each unit facing one of the frontages. The property has also been converted to condominium ownership, with an accessory one-garage under the control of the unit facing Highland Place. This garage faces Highland Place and is located to the north and east of the dwelling unit to which it is associated.

The surrounding area is developed residentially. To the north, across Highland Place, are single-family and semi-detached dwellings. To the south, across Newark Street, are single-family detached dwellings. To the east and west are also single-family detached dwellings. All surrounding properties are located within the R-1-B Zone District and the Cleveland Park Historic District.

The area has been identified on the Generalized Land Use Map as located within the low density residential land use category- "*Single-family detached and semi-detached housing are the predominant uses.*"

**EXISTING ZONING**

The subject property is located within the R-1-B "*high density one-family detached dwellings residence district*" (§ 105.1(a)(1)(B)) and the Cleveland Park Historic District.

**R-1 Districts**

"*The R-1 District is designed to protect quiet residential areas now developed with one-family detached dwellings and adjoining vacant areas likely to be developed for those purposes.*" (§ 200.1)

## RELIEF REQUESTED:

### Uniqueness of Property

The subject property is unique due to its existing configuration and the manner in which it is developed. Firstly, it has two fronts, with a street on each end, and no rear. Secondly, it is developed as a flat, with one unit facing Newark Street and the second unit, attached to the rear of the first, facing Highland Place. The property has also been converted to condominium, and the area available to this unit in which it could be expanded (Limited Common Area) is restricted almost exclusively to the area to the north of the dwelling, in the direction of Highland Place. Both of these unique conditions pre-date the adoption of the 1958 Zoning Regulations.

Both ends of the structure appear to be the front, and each side appears as a front yard to the unit to which it is associated. Adjacent properties are developed as single-family detached dwellings.

### Variance pursuant to § 405- Side Yards

Section 405 requires a minimum side yard of 8 feet within the R-1-B Zone District. The existing side yard provided by the accessory structure is 3.5, less than the minimum requirement. The applicant proposes to add onto the existing accessory structure for a distance of 13.5 feet, maintaining the existing 3.5 foot side yard. In addition, due to the close proximity to the side lot line, the applicant proposes no windows or openings on the side of the structure facing the adjoining property to the east. Expansion of the existing dwelling is limited to the location of the second unit, the location of the Limited Common Area assigned to this unit, the location of the existing garage building and the existing 3.8 foot wide side yard provided by the existing dwelling. The result is that the only area available to the applicant to expand is toward Highland Place, as proposed. Therefore, it would be a peculiar and practical difficulty for the applicant to provide the side yard as required and this variance can therefore be granted without substantial detriment to the public good.

### Variance pursuant to § 2002.5- Nonconforming Uses within Structures

Section 2002.5 provides that a "*structure devoted to a nonconforming use shall not be enlarged...*" The use of the subject property is for a flat, a use not permitted within the R-1-B Zone District. Therefore, the applicant must obtain a variance from this section in order to enlarge the structure. Without the granting of a variance to this provision, the applicant cannot expand the existing use, even though it was legally established in 1906. The expansion of the garage is in conformance with the recommendations of the Historic Preservation Review Board and the applicant cannot make the use conforming without the elimination of the second condominium unit. Therefore, it would be a peculiar and practical difficulty to the applicant to bring the use of the subject property into conformance with the provisions of the R-1-B Zone District and this variance can therefore be granted without substantial detriment to the public good.

## COMPREHENSIVE PLAN

This proposal will contribute toward achieving the following goal of the Preservation and Historic Features Element:

> "*The new preservation and historic features goal for the District is to preserve the important historic features of the District while permitting new development that is compatible with those features.*" (§ 801.1)

This proposal will contribute toward achieving the following goal of the Ward 3 Element:

> "*Maintaining and expanding the residential component; and*" (§ 1401.1(a)(2))

## COMMUNITY COMMENTS

**ANC 3C** unanimously voted (8-0) to support the application as area variances at its regularly scheduled meeting of June 20, 2005.

## AGENCY COMMENTS

The **Historic Preservation Review Board** recommended approval of the design at their meeting of January 25, 2005.

## RECOMMENDATION

The Office of Planning has reviewed the application in terms of the property's zoning, the intensity of use, the character of the neighborhood and the standards for variance relief. The Office of Planning concludes that the variances meet the required tests and can 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 Office of Planning recommends approval of the following:

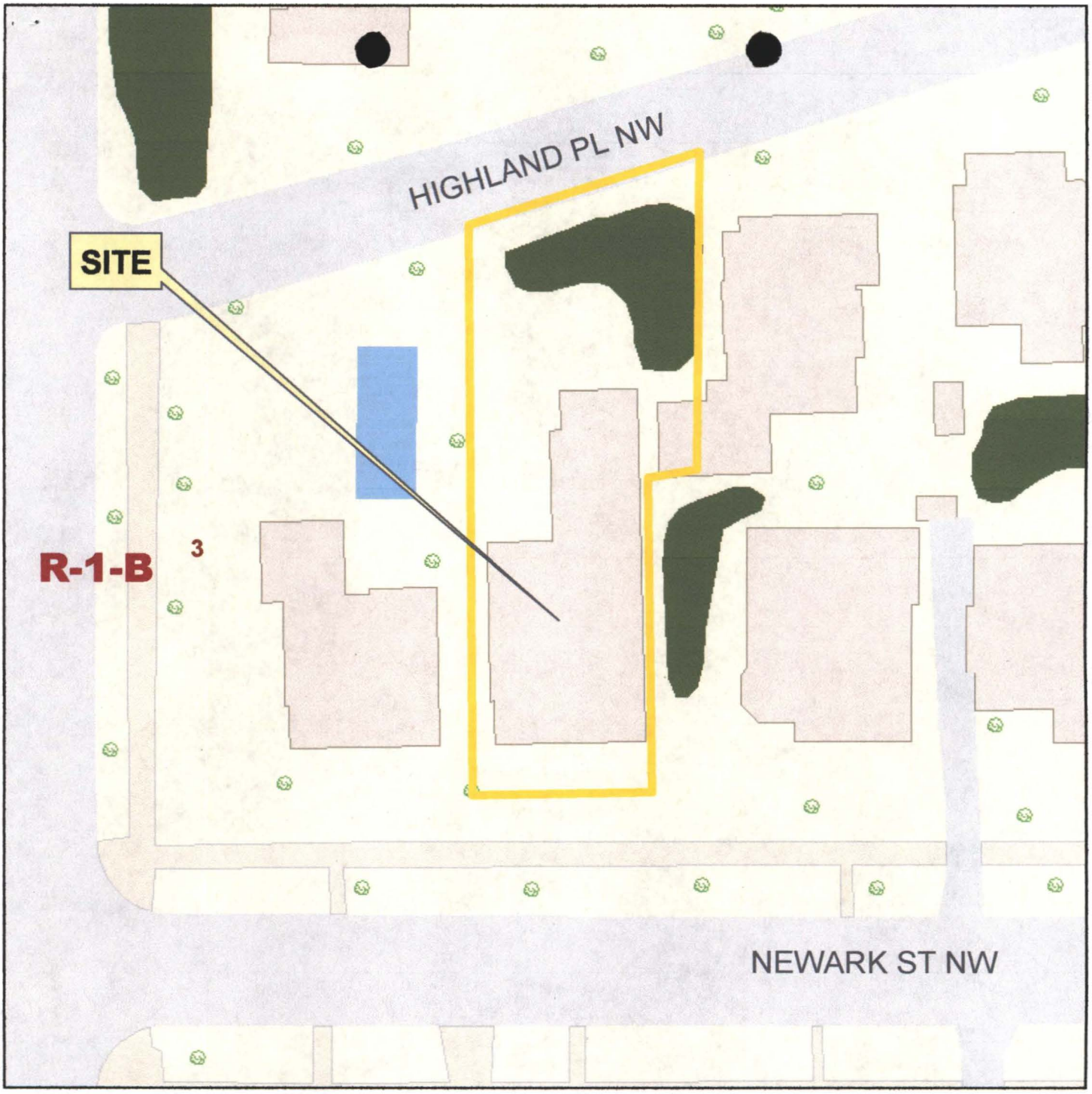
**Variance relief to:**

1. **§ 405 of 11 DCMR** to permit a reduction in the minimum side yard required from 8 feet to 3.5 feet; and
2. **§2002.5 of 11 DCMR** to permit the enlargement of a structure devoted to a nonconforming use

subject to the following condition:

That no windows or opening be provided on the east wall of the accessory structure.

EMc/sjm$_{AICP}$




# BZA APPLICATION NO. 17344

## 3324 Highland Place, N.W.

Feet

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0 20 40 60



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

**Office of Planning ~ June 27, 2005**

This map was created for planning purposes from a variety of sources. It is neither a survey nor a legal document. Information provided by other agencies should be verified with them where appropriate.