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Board of Zoning Adjustment
441 4th Street SW
Washington, DC

RE: 328 D Street SE
Special Exception Application

Dear Sir or Madam:

Below is our statement addressing the 'burden of proof' requirements for the above mentioned Special Exception application.

BURDEN OF PROOF STATEMENT

The proposed special exception is consistent with the general intent and purpose of the Zoning Regulation and Map. The subject property is in an R-4 district which, according to the Zoning Code "is designed to include those areas now developed primarily with row dwellings, and goes on to say that "Very little vacant land shall be included within the R-4 District, since its primary purpose shall be the stabilization of remaining one-family dwellings" (DCMR-11 330.1 and 330.2).

In this instance, the special exceptions being requested (percentage of lot coverage, side yard, and court requirements) will, if granted, merely bring the property in line with the type and density of development intended in the R-4 district.

The existing lot was clearly intended for development as a row dwelling, and the house is a row dwelling in all but the most technical sense. But because the shared wall on the east is not on the property line, and the house does not share a party wall with its neighbor to the west, a strict reading of the Zoning Code forces this to be treated as a detached dwelling and is therefore subject to the 40% lot coverage requirement for 'all other structures' (DCMR 403.2) and 8' side yard requirements (DCMR405.9). The relief being sought would merely allow this property to be governed by the lot coverage requirements for row dwellings (60%) and allows the existing width of the structure to be maintained for the addition. Also, because of the encroachment on the east side of the property by the structure on the adjacent lot, the proposed extension would

create a situation that is technically an open court that does not conform to the minimum size requirements for a court. For this reason relief is also being sought from the minimum court size requirement (DCMR 406.1).

Section 3104.1 of the zoning code permits additions to one-family dwellings or flats in any R District that require the relief being sought, subject to the requirements of Section 223.

Section 223.2 specifies that:

" the addition shall not have a substantially adverse affect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:

- (a) The light and air available to neighboring properties shall nto be unduly affected;*
- (b) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;*
- (c) The 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; and*
- (d) In demonstrating compliance with paragraphs (a), (b), and (c), of this subsection, the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the proposed addition to adjacent buildings and views from the public way.*

There are three properties that are either abutting or adjacent the subject property, 323 4th Street, to the north, 326 D Street SE to the west, and 330 D St. SE to the east.

With regard to requirement (a):

323 4th Street is north of the property and abuts the rear yard of the subject property with a property-line side wall. The rear yard of the subject property will exceed the minimum size required by the zoning code requirements. Moreover, 323 4th Street SE is a row dwelling and has only one window in a side wall facing the subject property. Therefore light and air available to this property are not diminished to any appreciable extent.

330 D St. SE shares a zero lot-line wall with the subject property, though as noted it is not immediately on the property line. Apart from the fact that this party wall does not fall on the property line, this is a typical condition envisioned for the R-4 district. The code does not envision that light or air will be available at party walls between structures; therefore the proposed addition will not affect the light and air available to this property in any way other than that anticipated by the zoning code in this situation.

326 D St SE shares a property line with the subject property, and like the subject property has a side wall parallel with the property that is considerably closer to the side lot line than is permitted as a matter of right by the zoning code. There are windows in this wall facing the subject property which will receive less direct sunlight as a result of the proposed special exception,

however no windows will be blocked, and the distance between the two facing side walls will not be diminished. A substantial portion of the existing structure at 326 D Street was added in ca. 2000 and required the same relief from the Zoning Code being sought in this application. The amount of light and air available to both properties will be identical.

With regard to requirement (b):

The privacy of use and enjoyment of neighboring properties will not be compromised by the proposed project for reasons similar to those listed for requirement (a). The windows on the west side wall (facing 326 D Street SE) are not closer to the property line than the windows on the adjacent property. Moreover, the windows proposed in this application are deliberately kept small in order to maximize privacy while allowing light.

With regard to requirement (c)

The proposed addition is entirely behind the existing structure and will be all but imperceptible as viewed from D Street. It will be visible from 4th Street SE (across the rear yard of 330 D Street SE), however the scale and detailing of the proposed design are in keeping with the overall character of the neighborhood. ANC voted to support the project, and CHRS raised no objections and the project has been approved by HPRB

With regard to requirement (d) please refer to attached plans for representations of the proposed project.

Section 223.3 specifies that the lot occupancy of the structure together with the addition shall not exceed 70% in an R-4 district. The proposed project would result in an overall lot coverage of 961.1SF on a lot of 1706 SF, a coverage of 56.3%.

Section 223.5 specifies that this section may not be used to permit the introduction or expansion of a nonconforming use as a special exception. The existing use is a Single family dwelling, and no change in use is proposed.

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If you have any questions or require any additional information, please contact me at (202) 277-8087 or at fetaylorai@cs.com.

Very truly yours,

Frederick Taylor, AIA