

**Board of Zoning Adjustment
Burden of Proof Statement**

**Date: 2/27/2017
Revised**

Owners: Douglas and Diane Menorca
Address: 1 Library Court, SE
Square: 0788
Lot: 0826
Zone: RF 3

The applicant is seeking zoning relief from the Board of Zoning Adjustment in order to build a one-story addition at the rear of the existing house. The specific zoning relief sought and the subsection by which relief may be granted for the non-conforming conditions are as follows:

Area Variance Request pursuant to 11 DCMR, Sutable X , 1002.1

1. Density/ Lot Width (E-201): The lot is 14.17' wide and is required to be 30' wide. There is no feasible way to make the lot conforming.
2. Lot Area (E-201): The existing lot is 531.31 SF and is required to be 3000 SF. There is no feasible way to make the lot conforming.
3. Non Conforming Structure (C-202): The existing house is a non conforming structure (though conforming in use). By adding an addition, the project increases a non-conforming condition. There is no feasible way to make the existing house or addition conforming.

Special Exception Request pursuant to 11 DCMR, E-5108

4. Height (E-5102): The existing height is 22.125' and 20' is the maximum allowed by right. The proposed addition is only 1 story and 12' – 7 ½" to the top the railing on the roof.
5. Pervious Surface (E-5107): Project proposes 0% and is required to have 10%. Currently there is 0% pervious surface and the project would simply continue with 0% pervious surface. There is no practical way to create 10% pervious surface and still build the addition.

Special Exception Request pursuant to 11 DCMR, E-1504

6. Roof (C-1502): The project proposes putting fences on the east and west property lines at the 2nd floor deck level, instead of setting them inboard 3'. In order to maintain exterior space, a 2nd floor roof deck is proposed. As the lot is only a little over 14' wide, if the deck guard rails were set back at a 1:1 ratio, the deck would only be 8' wide, which defeats the purpose of creating a roof deck for exterior space.
7. Rear Yard (E-5104): The proposed rear yard is 0' and 5' is required. If the 5' were maintained, the project would actually create a non-conforming closed court. In addition, the lot is so small, that the addition needs to fill the rear yard to create a useable space.
8. Side Yard (E-5105): The rear property line abuts another record lot that fronts Independence Avenue SE. Project proposes 0' setback and is required to maintain 5' setback from the property line of all non-alley lots. Similar to the rear yard relief request, it is impractical to set the addition back 5'. In addition, the

non-alley lot to the rear already has a 2 story plus accessory building on the property line so the intent of the regulation is maintained.

Special Exception Request pursuant to 11 DCMR, C-703

9. Parking (C-704): 0 parking spaces are existing or proposed and 1 is required. The existing rear yard is not large enough for a 9' by 19' parking pad. Therefore, it is impossible to create a parking space with or without the addition.

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10. Rear Extension: The proposed addition will extend 11.5' past the adjacent house and the proposed rule requires a maximum extension of 10'. If the addition extended only 10, the 1.5' leftover space would create a non-conforming closed court and create a very difficult construction situation. Though this regulation has not been formally approved at the time of this submission, it is widely expected to be approved shortly and therefore will require relief per the adopted rule.

The lot is an Alley Lot, bounded on 2 sides by Library Court. The lot is a rectangle with a non-conforming structure that is semi-attached. Almost everything about the lot and structure is non-conforming under the current zoning regulations but was conforming at the time it was recorded and built in the 19th Century.

The house has one bedroom and one bathroom. It is a 2-story brick house with a crawl space. It is used as a single family home.

Variance Request:

1. The zoning relief sought does not change or undermine the intent and purpose of zoning regulations for RF-3 districts. RF-3 districts are designed to be residential use, utilizing low density, fully attached row houses on small lots in the U.S. Capitol precinct. Specifically, the purpose of this district is to:
 - a. "Promote and protect the public health, safety, and general welfare of the U.S. Capitol precinct and the area adjacent to this jurisdiction". The applicant's request adheres to the intent and purpose of the district by complying with the use requirements, and proposing an addition that is modest in height and scale to maintain the character of Library Court.
 - b. "Reflect the importance and provide sufficient controls" for this district. The applicants recognize the importance and unique role named alley lots play in the fabric of the U.S. Capitol District. The applicants want to be responsible stewards of the their property and maintain the alleyscape and character while they modify their home to make it livable for their family. The one story addition provides just enough space to create a stairwell to a new cellar level that will provide a much-needed 2nd bedroom.
 - c. "Provide particular controls" because the area has "well recognized general public interest". A one-story addition will not impede the public interest. In addition, by working with the ANC, the Capitol Fine Arts Commission, and local review groups, the public's interest is well represented and protected.
 - d. "Restrict some of the permitted uses". The applicant intends to adhere to the allowable single-family residential use.

2. By digging out a cellar level, the owners are able to add a second bedroom to their 1 bedroom house. The addition will house the stair well to the cellar level and maximize the natural light reaching the cellar level. In order to maintain some exterior space, a modest roof deck is proposed to sit on top of the 1 story addition in the rear yard. The property abutting the rear property line already has 2 stories plus building height and another 2 story plus structure sits two lots to the east. Therefore, little light and air gets into the applicant's current rear yard. By creating the 2nd floor deck, the applicant will improve the quality of the exterior space without interfering with the light and air for the adjacent properties.
3. The public good is not impaired. By applicant is requesting a modest addition, 12' – 7 ½" high (to the top of the railing of the 2nd floor deck), well below the allowable 20' for alley lots or 35' in the RF zones. The façade fronting Library Court is designed to be in keeping with the existing architecture in the alley, utilizing brick as the facing material and opening proportions similar to the existing openings in the home. The applicants bought the property because of the unique character and historical significance of the home and neighborhood. They want to stay in the home for those same reasons, but with a young family, it is essential to add another bedroom. Without zoning relief, the applicant faces the exceptionally difficult task of having to relocate their family and sell their house.
4. The lot itself poses exceptional and practical difficulties. The lot is incredibly small (just 531 SF and just over 14' wide) and the existing floor area is only 730 SF. In comparison to the requirements today for alley lots (30' wide with 3,000 SF), the property is exceptional. In addition, the house is semi attached. The rear of the lot is also bounded by a tall brick wall of the adjacent neighbor's accessory building. There is no practical way to bring the lot or the building into a conforming condition.
5. The proposed plans will not have a negative effect on the adjacent homeowners:
 - The light and air of adjacent neighbors will not be negatively impacted, as the addition is almost as low as the existing fence. In addition, the adjacent neighbors sharing a property line have indicated their support for the project and letters of support will be provided.
 - The privacy of use and enjoyment of neighboring properties shall not be unduly compromised because there are no windows placed on the east side of the addition (shared party-wall property line). The alley side has a window and door but the alley itself is 28' wide with garages on the other side of the alley.
 - The project will conform to the character, scale and pattern of the houses on the block. Great effort has been made to enlarge this house in keeping with the existing alleyscape and building aesthetic.
6. The lot occupancy is 70% and 100% lot occupancy is proposed though alley lots under 1,800 SF have no lot coverage limitations (E – 5103).
7. The house is used as single family residential, a conforming use and there are no plans to change the use.

Special Exception Request:

1. Under criteria for C703, BZA may grant relief from the parking requirements when a parking space cannot be provided on the lot or within 600' of the lot. The existing open space on the lot is 14.17' by 11' which is not large enough to accommodate parking. In addition, there is no available parking space within 600' of the lot. In addition, as a single family residential use, there are only two residents, few guests,

and no employees, customers, or clients who are reasonably expected to use the property.

2. Under criteria for E5202, the project is very compatible with the present and proposed development of the neighborhood. The home will stay single family residential and stay within the scale and aesthetics of Library Court and the surrounding area. In addition, the Historic Preservation Office has already written their opinion that the project is so small in scope and is well designed and therefore does not even need to be presented to Historic Preservation Review Board or the Commission of Fine Arts. Therefore, the project is very consistent with the goals and mandated of the US Congress in title V of the Legislative Branch Appropriation Act, 1976.
3. Under criteria for C1504, it would be unduly restrictive to require a 1:1 set back for railings on the proposed roof deck. With the lot barely 14' wide, the only exterior space would become 8'. Aesthetically, having the rail on the property line works with the design and has been praised by HPO staff. Without a rail (and trim board) on the property line, the roof edge would be visible from Library Court and not be as attractive as the trim board and rail. Finally, the light and air to both abutting neighbors would not be materially impaired. The neighbor to the south has an even taller brick wall on the property line and to the east, the railing would still allow for light and air throughout. We anticipate letters of support for the project from both neighbors.

Gay Hardwick
Hardwick Studio, PLLC
3505 Kent Street, Kensington, MD 20895

202.455.6733 (land)
202.607.4020 (cell)
gay@greenarchitectdc.com