



BURDEN OF PROOF

APPLICATION FOR SPECIAL EXCEPTION

2608 36<sup>TH</sup> Street NW, Washington DC 20007

To: DC Office of Zoning
Board of Zoning Adjustments
441 4th Street, NW, Suite 200S
Washington, DC 20001

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Tom Henneberg and Lisa Hayes, owners of 2608 36<sup>th</sup> Street NW, hereby apply for a Special Exception per DCMR chapter 223 to build a two-story addition on the west side of their home.

The aspects of the proposal that fall outside the current zoning regulation are as follows:
The proposed construction would extend the existing house wall, resulting in a side yard that is less than 8 feet in width, as specified as the minimum for the R-1-B zoning district.

SUMMARY

Tom Henneberg and Lisa Hayes recently purchased their first home at 2608 36th Street NW, located in the in the R-1-B Zone. (Square 1935, Lot 0024). They seek permission from the Board of Zoning Adjustment (BZA) to remove an existing enclosed single-story porch located on the rear of their detached single-family home, and to replace the porch with a modest 2-story addition sufficient to enlarge a small bedroom, and to expand the footprint of the kitchen first laid out in 1923. The proposed two-story addition will extend the length of the existing nonconforming side yard on the right/north side of the lot by six feet.

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EXHIBIT NO.8

They seek a special exception pursuant to 11 DCMR Subtitle X, Chapter 9, under Subtitle D § 5201, from the side yard requirements of Subtitle D § 307.1 and from the prohibitions against expanding non-conforming structures of Subtitle C § 202.2 (b). The addition will not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwellings or properties, and the lot occupancy after construction will only reach 25.3%.

Tom and Lisa have met with their ANC representative, Malia Brink, and provided her with the proposed project plans. They also have been sharing the proposed plans with neighbors, and will continue their outreach in the weeks ahead. They will submit a statement of their efforts to the ANC no less than two weeks prior to the public hearing.

#### **STATEMENT OF EXISTING AND INTENDED USE**

The existing use is a single family, residential building. There is no change in use being sought.

#### **BASIS FOR GRANT OF SPECIAL EXECPTION**

The requested relief is within the BZA's authority: The BZA may "approve as a special exception in the R zones relief from the following development standards of this subtitle, subject to the provisions of this section and the general special exception criteria at Subtitle X, Chapter 9: ... (b) Yards." 11 DCMR Subtitle X, Chapter 9, under Subtitle D §5201.1 (b)

The BZA is authorized under §8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2), to grant special exceptions, as provided in this title, where, in the judgment of the Board of Zoning Adjustment, the special exceptions:

- (a) Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;
- (b) Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and
- (c) Will meet such special conditions as may be specified in this title.

#### **PROJECT DESCRIPTION**

The property at 2608 36<sup>th</sup> St NW is a standard 50'-wide interior lot with a house built in 1923. The existing right/north side yard that runs the length of the original home is non-conforming at 3'-0" wide. There is a 6' tall wood fence separating this side of the home from the neighboring property, which faces the nearest cross-street, Edmunds St NW. See the Vicinity Map in Sheet 1 of the Architectural Drawings.

A prior owner added an addition to 2608 36<sup>th</sup> St NW, in the form of an enclosed porch, which currently extends six feet into the back yard from the rear of the home. Tom and Lisa seek permission to remove the porch and replace it with a new two-story addition that would continue an additional six feet into the back yard. The purpose of addition is to contain an expansion of the small existing kitchen on the main floor and an expansion of a small bedroom on the second floor.

The original home has a 3'-0" side yard set-back, with a two-foot roof overhang, and the existing enclosed porch has a 4' side yard setback. The existing enclosed porch is not well-constructed and has a different floor and ceiling height than the adjacent kitchen. (See Property Photos Attachment, photo of rear of house.) The proposed addition will have exterior materials and details that are compatible with the design of the subject property and the neighboring structures, and a minimal roof overhang.

Many design concepts were considered in an effort to avoid the cost and burden of the proposed addition. Unfortunately, due to the condition of the current enclosed porch, and the location of the house's only stairway and structural supports in the center rear of the house, an addition on the northwest corner of the house is the only way to make functional use of both spaces without the need to relocate the stairs or kitchen. The addition in this location also preserves the existing windows on the rear of the house that provide light and air to the living room, stairway and attic.

### **BURDEN OF PROOF STATEMENT**

This proposed addition complies with the intent and spirit of DC zoning regulations. As stated in 11-D DCMR §300, "the purposes of the ... R-1-B zones are to (a) Protect quiet residential areas now developed with detached dwellings and adjoining vacant areas likely to be developed for those purposes; and (b) Stabilize the residential areas and promote a suitable environment for family life." The proposed rear addition seeks to preserve the historical integrity of this home originally constructed in 1923, while modestly enlarging and updating the kitchen and bedroom for continued use and enjoyment by a modern family.

DC code provides that an applicant for special exception demonstrate that the proposed addition or accessory structure shall not have a substantially adverse effect 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 not be unduly affected;*
- b. *The privacy of use and enjoyment of the neighboring properties shall not be unduly compromised;*
- c. *The addition or accessory structure, 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 the houses along the subject street or alley frontage.*

11 DCMR Subtitle X, Chapter 9, under Subtitle D § 5201.3

As outlined below, Tom and Lisa's request satisfies these requirements.

- a. *The light and air available to neighboring properties shall not be unduly affected by the proposed addition.*

The proposed rear addition will not negatively impact the access to light and air of the neighboring properties. The house to the north, 3600 Edmunds St. NW, is closest to the addition and faces toward the nearest cross-street, Edmunds St. NW. As seen in the Property Photos Attachment, photo of rear of house, 3600 Edmunds has a large paved parking area on the back of its property closest to the proposed addition. The rear of 3600 Edmunds is approximately 19' from the fence along the shared property line, so there will be minimal impact from increased shadows. Tom and Lisa have been unable to meet the owners of 3600 Edmunds.

The house to the south, 2606 36<sup>th</sup> Street NW, is located behind a 6' privacy fence and will be more than 35' away from the nearest wall of the proposed addition. There would be no loss of light and air to 2606 36<sup>th</sup> Street resulting from the addition. Tom and Lisa have spoken with the owners of 2606 36<sup>th</sup> Street, and shared project plans, and they do not oppose the two-story addition.

To the rear of the house is an alley, and the houses on the other side are spaced well away. Three houses across the alley will be able to see the addition from their property, 3620 Edmunds St NW, 2609 36<sup>th</sup> Place NW, and 2607 36<sup>th</sup> Place

NW. Tom and Lisa have spoken with two of the three owners about the project, 2609 and 2607 36<sup>th</sup> Place NW, and shared project plans with them, they do not oppose the addition.

- b. *The privacy of use and enjoyment of the neighboring properties shall not be unduly compromised by the proposed addition.*

The property closest to the addition is the rear of the property located at 3600 Edmunds. While the bulk of the addition will be facing 3600 Edmunds' garage and paved rear parking lot, to maximize 3600 Edmunds' privacy, we have not planned any windows on either floor of the proposed addition on the side facing 3600 Edmunds.

There will be windows on the addition facing west into the backyard, and to the south. Those windows will all be distant from the nearest neighbors, and the neighbors are supportive of the addition.

- c. *The addition or accessory structure, 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 the houses along the subject street or alley frontage, but instead will improve the appearance of the home when viewed from the alley.*

There are no proposed changes that will be visible from the front of the home. Tom and Lisa have spoken with the neighbors across the street from the front of the home at 3554 Edmunds St NW and 2601 36<sup>th</sup> St NW, and shared the proposed plans with both. Neither have raised concerns about the project.

The proposed addition will improve the visual impact of the rear of the home, by removing the existing dilapidated enclosed porch, and replacing it with an updated addition. The neighbors directly across the alley, at 2609 36<sup>th</sup> Place NW, directly face the rear of the home from their kitchen and living area. They are enthused about the proposed improvement in the appearance of the home from its current condition. Many of the houses in the neighborhood have had similar additions over the years, and the proposed addition will blend seamlessly with the other homes on the street. (See Property Photos Attachment, photo across alley).

#### **CONCLUSION**

For the reasons set forth above, we respectfully request the Board of Zoning Adjustment approve the application for Special Exception.

Thank you,



Elizabeth Shepard, AIA