

# **Burden of Proof Special Exception and Variance Application**

## **912 5<sup>th</sup> Street NE**

**To:**           **The Office of Zoning**  
Government of the District of Columbia  
Suite 210 South  
441 4<sup>th</sup> Street, NW  
Washington DC 20001

**From:**       **Jennifer Fowler**  
Agent/Architect  
1819 D Street SE  
Washington, DC 20003

**Date:**        July 12, 2017

**Subject:**     **BZA Application, Cooper Garage**  
912 5<sup>th</sup> Street NE (Square 807, Lot 42)

Andrew Cooper, owner and resident of 912 5<sup>th</sup> Street NE, hereby applies for a special exception pursuant to Subtitle X, Chapter 9 and Subtitle E § 5201.1, to build a garage at the rear of his property. He also applies for an area variance pursuant to Subtitle X, Chapter 10, Section 1000.1 for the alley width requirement of Subtitle C § 301.1 (c)(4). The aspects of the proposed project that falls outside the current zoning regulation are as follows:

*The existing house has a lot occupancy of 714 SF (44%), which will increase to 1133 (70%) with the proposed garage. The proposed lot occupancy will be at the 70% maximum allowed by a special exception for a row house in the RF-1 zoning district (ZR-16 304.1).*

*Additionally, relief is requested for Subtitle U 301.1(c) due to the widths of the alleys off the main streets. 10' wide public alleys from I Street, 4<sup>th</sup> Street and 5<sup>th</sup> Street lead into the 15' wide public alley at the rear of the property. The proposed garage does not meet the requirement of Subtitle U 301.1(c)(4) that requires permanent access to the property on an improved alley no less than fifteen feet (15 ft.) in width and within a distance of three hundred (300) linear feet of a public street.*

### **I. Summary:**

This special exception qualifies under ZR-16 Subtitle X, Chapter 9 and Subtitle E § 5201.1, because the lot occupancy does not exceed 70%, and the garage will not have a substantially adverse affect on the use or enjoyment of any abutting or adjacent dwelling or property.

This area variance qualifies under ZR-16 Subtitle X, Chapter 10, because the existing permanent access provides an exceptional situation that results in a practical difficulty. Granting of the relief will have no substantial detriment to the public good and will have no substantial harm to the Zoning Regulations.

### **II. Qualification of Variance:**

#### **1002 Variance Review Standards**

As per Subtitle X § 1002.1 (a):

*An applicant for an area variance must prove that, as a result of the attributes of a specific piece of property described in Subtitle X § 1000.1, the strict application of a zoning regulation would result in peculiar and exceptional practical difficulties to the owner of property;*

The property is within 300 linear feet of a public street (I, 4<sup>th</sup> and 5<sup>th</sup> Street NE) and accessible via an improved public alley. However, the alley does not measure 15' in width for the entire length from the property to either I Street or 4<sup>th</sup> or 5<sup>th</sup> Streets. The alley directly behind 912 5<sup>th</sup> Street is 15' in width but narrows as it approaches I Street and 4<sup>th</sup> and 5<sup>th</sup> Streets. This results in a practical difficulty to the applicant because the alleys cannot be widened due to the private properties that border them. This therefore limits the ability for the applicant to use his property.

Granting relief to the access requirements will not have a detrimental impact on the public good assuming that all emergency services can still reach the proposed dwelling at 912 5<sup>th</sup> Street NE. There will also be no substantial harm to the Zoning Regulations provided that the alley can allow for all necessary emergency services.

### **1003 Application Requirements**

*An application for an area variance shall meet the requirements of Subtitle Y § 300.*

Along with this application, we have included the following items:

- a) Photos of the existing house and surroundings;
- b) Plan and elevation drawings of proposed lots and improvements, including a site plan showing the relationship of the proposed lots to adjacent buildings.
- c) Official Plat from the DC Office of the Surveyor.

### **III. Qualification of Special Exception**

#### **901 Special Exception Review Standards**

*The Board of Zoning Adjustment will evaluate and either approve or deny a special exception application according to the standards of this section.*

*The Board of Zoning Adjustment 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;*

The existing square is extremely dense with several garages along the back alley. The proposed garage will be in scale with the existing garages in the alley. The proposed garage will follow the required setback from the alley centerline. Additionally, the proposed garage will be constructed with high quality materials similar to those on the existing garages.

- b. *Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and*

**The light and air available to neighboring properties shall not be unduly affected.**

### **914 5<sup>th</sup> Street NE**

914 5<sup>th</sup> Street NE lies to the north of the proposed garage at 912 5<sup>th</sup> Street NE. 914 5<sup>th</sup> Street does not have a garage structure at the rear of the property. The proposed garage at 912 5<sup>th</sup> Street may have a minimal impact on the light and air available to the rear yard of 914 5<sup>th</sup> Street, but most of the impact will be limited to the rear portion of the yard at 914 5<sup>th</sup> Street. The proposed garage will not impact the existing house at 914 5<sup>th</sup> Street since the garage will be more than 23' back from the rear of the house at 914 5<sup>th</sup> Street. Therefore, given the garage location, the proposed project will have a minimal impact on the light and air available to 914 5<sup>th</sup> Street NE.

### **Neighbors to the South**

Neighbors to the south of the proposed garage at 912 5<sup>th</sup> Street NE are separated from the proposed garage structure by their rear yards. 412 I Street and 414 I Street are directly to the south and are separated from the proposed garage by rear yards. The proposed garage at 912 5<sup>th</sup> Street may have a minimal impact on the light and air available to the rear yards the neighbors to the south, but most of the impact will be limited to the rear portion of the yards. Additionally, the garage is located to the north of the existing rear yards, so the impact on the light available to the rear yards will be minor. Overall, the proposed garage at 912 5<sup>th</sup> Street NE will have a minor impact on the light and air available to the neighbors to the south.

### **Neighbors to the West**

Neighbors to the west of the proposed garage at 912 5<sup>th</sup> Street NE will not be unduly affected by the proposed project. The neighbors to the west are separated from the proposed garage by a 10-15' wide public alley and their existing rear yards. Additionally, the proposed garage at 912 5<sup>th</sup> Street will be set back 4'-6" from the rear property line at 912 5<sup>th</sup> Street NE. Given the distance between the neighbors to the west and the proposed garage at 912 5<sup>th</sup> Street, the neighbors will not be substantially impacted by the light and air available to their properties.

**The privacy of use and enjoyment of neighboring properties shall not be unduly compromised.**

### **914 5<sup>th</sup> Street NE**

The proposed garage at 912 5<sup>th</sup> Street NE will not unduly compromise the privacy or enjoyment of neighbors to the north. The existing privacy fence will remain along the shared property line, thus prohibiting views between the two yards. The proposed garage will not have any windows along the northern wall, thus prohibiting any views into the rear yard at 914 5<sup>th</sup> Street. There will be new windows along the second level east wall of the garage, which may allow some views into the rear yard at 914 5<sup>th</sup> Street, however these views will be minimal given the size of the windows.

### **Neighbors to the South**

The proposed garage at 912 5<sup>th</sup> Street NE will not unduly compromise the privacy or enjoyment of neighbors to the south. The existing fence will remain along the shared property line, thus prohibiting views into the rear yards to the south. The proposed garage will not have any windows along the southern wall, thus prohibiting any views into the rear yards to the south. There will be new windows along the second level east wall of the garage, which may allow some views into the rear yards to the south, however these views will be minimal given the size of the windows. Additionally, the rear yards are deep, thus reducing the impact on the privacy and enjoyment of the neighbors to the south.

## **Neighbors to the West**

The proposed garage will not unduly compromise the privacy or enjoyment of neighbors to the west. The neighbors to the west are separated from the proposed garage by a 10-15' wide public alley and existing rear yards. The proposed garage at 912 5<sup>th</sup> Street NE will be similar in scale to the existing garages in the neighborhood.

### **5201 Special Exception Review Standards**

#### **5201 ADDITION TO A BUILDING OR ACCESSORY STRUCTURE**

*5201.1 The Board of Zoning Adjustment may approve as a special exception in the RF 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.*

**(a) Lot occupancy;**

*(b) Yards;*

*(c) Courts;*

*(d) Minimum lot dimensions;*

*(e) Pervious surface; and*

*(f) The limitations on enlargements or additions to nonconforming structures as set forth in Subtitle C § 202.2.*

*5201.2 Special exception relief under this section is applicable only to the following:*

*(a) An addition to a residential building;*

***(b) A new or enlarged accessory structure that is accessory to such a building; or***

*(c) A reduction in the minimum setback requirements of an alley lot.*

*5201.3 An applicant for special exception under this section shall demonstrate that the 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: Subtitle E-32*

*(a) The light and air available to neighboring properties shall not be unduly affected;*

914 5<sup>th</sup> Street NE lies to the north of the proposed garage at 912 5<sup>th</sup> Street NE. 914 5<sup>th</sup> Street does not have a garage structure at the rear of the property. The proposed garage at 912 5<sup>th</sup> Street may have a minimal impact on the light and air available to the rear yard of 914 5<sup>th</sup> Street, but most of the impact will be limited to the rear portion of the yard at 914 5<sup>th</sup> Street. The proposed garage will not impact the existing house at 914 5<sup>th</sup> Street since the garage will be more than 23' back from the rear of the house at 914 5<sup>th</sup> Street. Therefore, given the garage location, the proposed project will have a minimal impact on the light and air available to 914 5<sup>th</sup> Street NE.

Neighbors to the south of the proposed garage at 912 5<sup>th</sup> Street NE are separated from the proposed garage structure by their rear yards. 412 I Street and 414 I Street are directly to the south and are separated from the proposed garage by rear yards. The proposed garage at 912 5<sup>th</sup> Street may have a minimal impact on the light and air available to the rear yards the neighbors to the south, but most of the impact will be limited to the rear portion of the yards. Additionally, the garage is located to the north of the existing rear yards, so the impact on the light available to the rear yards will be minor. Overall, the proposed garage at 912 5<sup>th</sup> Street NE will have a minor impact on the light and air available to the neighbors to the south.

Neighbors to the west of the proposed garage at 912 5<sup>th</sup> Street NE will not be unduly affected by the proposed project. The neighbors to the west are separated from the proposed garage by a 10-15' wide public alley and their existing rear yards. Additionally, the proposed garage at 912 5<sup>th</sup> Street will be set back 4'-6" from the rear property line at 912 5<sup>th</sup> Street NE. Given the distance between the neighbors to the west and the proposed garage at 912 5<sup>th</sup> Street, the neighbors will not be substantially impacted by the light and air available to their properties.

*(b) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;*

The proposed garage at 912 5<sup>th</sup> Street NE will not unduly compromise the privacy or enjoyment of neighbors to the north. The existing privacy fence will remain along the shared property line, thus prohibiting views between the two yards. The proposed garage will not have any windows along the northern wall, thus prohibiting any views into the rear yard at 914 5<sup>th</sup> Street. There will be new windows along the second level east wall of the garage, which may allow some views into the rear yard at 914 5<sup>th</sup> Street, however these views will be minimal given the size of the windows.

The proposed garage at 912 5<sup>th</sup> Street NE will not unduly compromise the privacy or enjoyment of neighbors to the south. The existing fence will remain along the shared property line, thus prohibiting views into the rear yards to the south. The proposed garage will not have any windows along the southern wall, thus prohibiting any views into the rear yards to the south. There will be new windows along the second level east wall of the garage, which may allow some views into the rear yards to the south, however these views will be minimal given the size of the windows. Additionally, the rear yards are deep, thus reducing the impact on the privacy and enjoyment of the neighbors to the south.

The proposed garage will not unduly compromise the privacy or enjoyment of neighbors to the west. The neighbors to the west are separated from the proposed garage by a 10-15' wide public alley and existing rear yards. The proposed garage at 912 5<sup>th</sup> Street NE will be similar in scale to the existing garages in the neighborhood.

*(b) 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 houses along the subject street frontage;*

The existing square is extremely dense with several garages along the back alley. The proposed garage will be in scale with the existing garages in the alley. The proposed garage will follow the required setback from the alley centerline. Additionally, the proposed garage will be constructed with high quality materials similar to those on the existing garages. The proposed garage will not be visible from the street.

*(c) 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 or accessory structure to adjacent buildings and views from public ways; and*

The applicant has met this condition with a plat, plans, elevations, sections and photographs.

*(e) The Board of Zoning Adjustment may approve lot occupancy of all new and existing structures on the lot up to a maximum of seventy percent (70%).*

The proposed addition would result in a lot occupancy of 70% and can be permitted by special exception.

*5201.4 The Board of Zoning Adjustment may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent and nearby properties. 5201.5 This section shall not be used to permit the introduction or expansion of a nonconforming use as a special exception.*

*5201.6 This section shall not be used to permit the introduction or expansion of nonconforming height or number of stories as a special exception.*

The proposed garage is within the height and story limitations for an accessory structure.

## **902 Application Requirements**

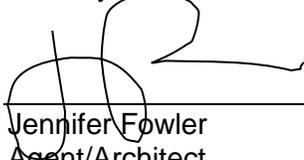
*An application for a special exception shall meet the requirements of Subtitle Y § 300.*

Along with this application, we have included the following items:

- d) Photos of the existing house and surroundings;
- e) Plan and elevation drawings of proposed addition, including a site plan showing the relationship of the proposed addition to adjacent buildings.
- f) Official Plat from the DC Office of the Surveyor.

If you require any further clarification or have any questions regarding the application, we are available at any time to discuss them with you.

Thank you,



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Jennifer Fowler  
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