

BEFORE THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT

APPLICATION OF:

**UPDATED: 7/30/2024**

Odette McDonald / Chris Mak  
113 Wayne Place SE  
ANC 8D08

### STATEMENT OF APPLICATION

I. 'NATURE OF THE RELIEF SOUGHT'

This statement is submitted by Odette McDonald and Chris Mak, (the "Applicant"), as the owner and representative of 113 Wayne Place SE, (the "Property"), (Square 6117, Lot 0052).

The Applicant seeks Variance relief for the construction of a detached six-unit, two story apartment building with a cellar in the RA-1 District, denoted here as the "Project" or "Proposed Building". Currently, the Property is occupied by a three story Multi-Family Dwelling, comprising two fully above-grade stories and one basement story.

The requested variance relief under Title 11 DCMR consists of four components:

1. New Residential Development in RA-1 Zone - Special Exemption Approval (U-§421.1):

The Applicant seeks approval for an extension or enlargement of the Proposed Building, necessitating a special exemption under Title 11 DCMR Subtitle U-§421.1. As outlined in this subsection, the development shall be reviewed by the zoning board as a special exemption pursuant to Subtitle X, Chapter 9.

2. Density (FAR) Inclusionary Zoning Relief (Subtitle F-§201.4): The maximum FAR permitted by zoning regulations is 0.9. However, bonus density is authorized with the voluntary application of Inclusionary Zoning to allow a maximum permitted FAR of 1.08. The proposed FAR for the Project is 1.00. As outlined in this subsection, the

Board of Zoning Adjustment  
District of Columbia  
CASE NO.21164  
EXHIBIT NO.30

development shall be reviewed by the zoning board as a special exemption pursuant to Subtitle X, Chapter 9.

3. Theoretical Subdivision Relief (C-§305): In order for two primary buildings on a single record lot in the RA-1 zone, a special exemption must be granted. As outlined in this subsection, the development shall be reviewed by the zoning board as a special exemption pursuant to Subtitle X, Chapter 9.
4. Rear Setback Area Relief (F-§207.1): As a result of the application of theoretical subdivision, a rear setback of 20 ft is required. An area variance is requested in relief of the 20 ft setback to accommodate the proposed development of a 13 ft setback.

In summary, the Applicant requests variance relief to enable the construction of the Proposed Building in compliance with the outlined zoning regulations, specifically addressing the bonus IZ FAR requirement and seeking special exemption approval for extension or enlargement, theoretical subdivision, and rear setback under Title 11 DCMR.

## II. JURISDICTION OF THE BOARD

The Board of Zoning Adjustment (the “Board”) has jurisdiction to grant the variance relief requested herein pursuant to Subtitle F 201.1.

## III. BACKGROUND INFORMATION OF THE PROPERTY

### A. The Property and the Surrounding Neighborhood

The Property, situated at 113 Wayne Place SE, is positioned towards the end of the block within the RA-1 zoned area, encompassing a total lot area of 7,974 square feet. The property currently hosts a three-story brick, detached dwelling, initially constructed around the early 1900s. This existing structure, referred to as the “Existing Building,” occupies 7,974 square feet

of land area. Within this space, the livable area comprises 1,445 square feet (18% of the lot area) or 3,611 square feet (45% of the floor area), with the basement level covering half of the above-

ground floors and the remainder consisting of an unfinished, non-livable dirt floor area.

The Property is flanked to the north by semi-detached multifamily dwellings and large detached multifamily dwellings on the east side, situated across from Wayne Pl SE. To the west lies a substantial undeveloped area, characterized by a dense forest of trees, extending across multiple neighboring lots with detached dwellings on the opposite side. Additionally, the Property is bordered to the south by an alley measuring twelve feet in width. The Existing Building is situated on the eastern side of the property line, facing Wayne Pl SE, and falls within the boundaries of ANC 8D08. This comprehensive overview provides context for the Property's current state, its surroundings, and its zoning classification within the district.

#### B. Description of Improvements and the Surrounding Area

The Property falls within Square 6117, which is delineated by Wayne Place to the east and an alley to the south, running parallel to undeveloped lots. This square represents a zoning district comprising an undeveloped lot along with adjacent buildings. Within this area, there exists a blend of residential structures, including detached homes and apartment complexes.

The rectilinear, mid-block lots facing Wayne Place Street SE on the same eastern side as the Existing Buildings measure approximately 7,974 square feet each. Among the five neighboring lots adjacent to the Property, two have undergone development while the remaining lots remain undeveloped. This description provides insight into the composition and development status of the surrounding area, aiding in understanding the context within which the Property exists.

#### C. The Neighborhood

113 Wayne Plc. Walk score is 63 out of 100. The transit score is 56, and Bikeable 35. These scores make this Congress Heights neighborhood the 46<sup>th</sup> most walkable neighborhood

in Washington, DC. There is access to public transportation including Metro rail stations Congress Heights, Southern Avenue Green Line, and Anacostia Green Line and several bus lines. Immediate area schools are Simon Elementary, Hart Middle, Ballou High and 6.3 miles from Georgetown Law. On the same block is St. Paul Senior Living. This neighborhood is within ten minute proximity to the International Spy Museum, Smithsonian, and The White House. There are several small retail businesses within walking distance and fifteen minutes' drive to Target, and Walmart. Grocery stores inside of a five minute drive are, Lidl, Safeway, and Giant. Hospitals are as close as a two minute drive, St. Elizabeth's, United Medical Center, George Washington University Hospital. There are three Military Bases within five minutes, Boiling Air Force Base, Anacostia Naval Station, and Naval Research Laboratory. The parks are walkable and have been updated, Oxon Cove Park, Frederick Douglass National Historic Site, Anacostia Park.

#### D. The Project

The Applicant is proposing to construct a detached apartment building measuring 53'-5" by 31'-8". Lot Occupancy (Subtitle F-§210.1) allows a maximum of 40% lot occupancy. The existing lot Occupancy of the Existing Building currently occupies 18.1% (1,445 sq. ft. of 7,974 sq. ft.) while the proposed building would add an additional 21.3% (1,697 sq. ft. of 7,974 sq. ft.). This results in a total lot occupancy of 39.4% (3,142 sq. ft. of 7,974 sq. ft.), adhering to zoning regulations.

#### NATURE OF VARIANCE RELIEF SOUGHT AND STANDARD OF REVIEW

The Applicant hereby seeks variance relief for the Floor Area Ratio (FAR) that exceeds the established limit of 0.9, specifically at a ratio of 1.00, as outlined in the zoning regulations of Washington, D.C. Please see the appendix to this document for the calculation of the FAR under the Perimeter-Wall Method of calculation. This variance is necessary to accommodate the proposed development's design and scope while ensuring compliance with other pertinent zoning requirements.

The Applicant submits that the project's FAR slightly exceeding the prescribed limit is justifiable given the project's context, unique characteristics, and the need to optimize land use without compromising the integrity of the surrounding area. Granting this variance will facilitate the realization of a development that contributes positively to the community while maintaining harmony with the existing built environment.

In light of the project's merits and the specific circumstances at hand, the Applicant respectfully requests that the Board of Zoning Adjustment (BZA) exercise its discretionary authority to grant variance relief for the FAR, thereby enabling the successful implementation of the proposed development.

#### THE APPLICANT MEETS THE BURDEN OF PROOF FOR VARIANCE RELIEF

New Residential Development in RA-1 Zone - Special Exemption Approval (U-§421.1): The Applicant has met the burden of proof for variance relief as a special exemption pursuant to Subtitle X, Chapter 9. See below for the Special Exemption burden of proof section for additional details.

Density (FAR) Inclusionary Zoning Relief (Subtitle F-§201.4): One apartment unit in the proposed development will be designated as an affordable housing unit in compliance with the Inclusionary Zoning standards. Additionally, the Applicant has met the burden of proof for variance relief as a special exemption pursuant to Subtitle X, Chapter 9. See below for the Special Exemption burden of proof section for additional details.

Theoretical Subdivision Relief (C-§305): the Proposed building will be considered a secondary primary building on a single record lot. The proposed building follows all the standards which apply to theoretical lots (side and rear yard, egress, building height, grading, landscaping plans, floor plans, and other zoning information) and is outlined in the site plans submitted to the zoning board. Please see the site plan for details. Additionally, the Applicant

has met the burden of proof for variance relief as a special exemption pursuant to Subtitle X, Chapter 9. See below for the Special Exemption burden of proof section for additional details.

Special Exemption burden of proof- The burden of proof regarding a special exemption which must be met are outlined in the following:

1. *Title 11 DCMR Subtitle X-§901.2 and U-§421.1 (a) - The Project will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps; and*
2. *Title 11 DCMR Subtitle X-§901.2 (b) - The Project will not affect adversely, the use of neighboring property. This is further detailed in the additional provisions as outlined in Title 11 DCMR Subtitle F-§5201.4 (a-c) which specify that a) the light and air available to neighboring properties shall not be unduly compromised; b) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised; and c) The proposed addition or accessory structure, together with the original building, or the new 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 street and alley frontage.*

According to Title 11 DCMR Subtitle X-§901.2 and U-§421.1 (a), the Project aligns with the general purpose and intent of the Zoning Regulations and Zoning Maps. The general purpose and intent of the zoning regulations are stated in *Title 11 DCMR Subtitle B-§101.1 and outline that the intent is to ensure adequate light and air, prevent undue concentration of population and overcrowding of land, and provide a distribution of population, business and industry, and use of land, that will create conditions favorable to transportation, protection of property, civic activity, and recreational, educational, and cultural opportunities; and that will tend to further economy and efficiency in the supply of public services.*

The Property is a corner lot with a large portion of unused/undeveloped area. It is bordered on the south by a public alley and the west by a forest (also large portions of undeveloped lots). To the north is a neighboring empty rear yard. This entire portion of the neighborhood is relatively large, undeveloped and underutilized and as such, the Project's location will not adversely affect

light/air/use and enjoyment, nor adversely affect public health, safety, morals, order, convenience, prosperity, or general welfare to these neighboring properties as there is ample distance to the nearest occupied/developed space owned by neighbors.

As this area (and surrounding undeveloped area in the neighborhood) in which The Project is proposed to be developed is barren and out of sight, it has become ideal for illicit activity and prevents productive use. A result led to three female remains being discovered, multiple shootings and other criminal activity. The Project will create a safer environment in the neighborhood as the illicit activity will no longer be barren and out of sight. The undeveloped/underutilized lot would be utilized in providing affordable housing for families in a neighborhood in which is housing constrained and which otherwise cannot be developed. It would create a safer environment for neighborhood civic activity and recreational opportunities and would further the efficiency of public services as police resources could be redirected to other needed areas, aligning with the broader goals outlined in Title 11 DCMR Subtitle B-§101.1.

As per Title 11 DCMR Subtitle X-§901.2 and U-§421.1 (b), the Project's location, surrounded by undeveloped areas and away from occupied spaces, ensures it does not compromise the wellbeing or welfare of neighboring properties. The Project also does not visually intrude upon the character, scale and pattern of houses along the street and alley as The Project will be of similar size and scale and visually similar to structures in the neighborhood. As The Project is in the rear yard of the lot and is not street facing, The Project will be primarily hidden from view. Additionally, the multifamily structures to the east (across from Wayne Pl SE) are significantly larger in size than The Project.

**Rear yard Area Relief (Subtitle F-§207.1):** The burden of proof regarding an Area Variance which must be met are outlined in the following:

*Title 11 DCMR 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 or exceptional and undue hardship upon the owner of the property... 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 Applicant has demonstrated, in accordance with Title 11 DCMR Subtitle X-§1002.1(a), that strict adherence to zoning regulations would result in peculiar and exceptional practical difficulties. The property's unique location, surrounded by graded topography and neighboring lots, presents challenges in conforming to zoning restrictions. Application of the setback requirements would result in undue hardship and would result in making full use of the lot occupancy impossible based on the current lot dimensions. Granting a variance is necessary to enable the reasonable use of the property, ensuring the minimum modification of regulations while affording relief.

#### COMMUNITY OUTREACH

The Applicant has already contacted and presented the proposed plans to the Advisory Neighborhood Commission (ANC) 8D and has the full support of the ANC. This is a project that the ANC 8D has expressed a need for in the community and hopes the BZA will approve this variance request.

#### CONCLUSION

In conclusion, the Applicant, represented by Odette McDonald and Chris Mak, seeks variance relief for the construction of a detached six-unit, two-story apartment building with a cellar at 113 Wayne Place SE, Washington, D.C. The variance relief pertains to four components: a Special Exemption Approval under Title 11 DCMR Subtitle U-§421.1 for an extension or enlargement of the proposed building, a Special Exemption Approval under Subtitle F-§201.4 for additional density through the voluntary application of Inclusionary Zoning, a Special Exemption

Approval under Subtitle C-§305 for a theoretical subdivision as the proposed building will be a secondary primary building on a single record lot, and an Area Variance Approval under Subtitle C-§207.1 for rear setback relief.

The Property, currently occupied by a three-story Multi-Family Dwelling, is located in the RA-1 District and encompasses a total lot area of 7,974 square feet. The proposed building's 1the prescribed limit of 108% with the approval of bonus density from the voluntary application of Inclusionary Zoning. The proposed special exemptions are essential to accommodate the proposed development's design and scope while complying with other zoning requirements.

The Applicant has demonstrated that the proposed project aligns with the general purpose and intent of the Zoning Regulations, does not adversely affect neighboring properties, and contributes positively to the community by providing affordable housing and enhancing civic activities. Additionally, strict adherence to zoning regulations would result in practical difficulties due to the property's unique location and characteristics.

Therefore, based on the merits of the project and the specific circumstances at hand, the Applicant respectfully requests that the Board of Zoning Adjustment (BZA) grant the special exemptions, allowing for the successful implementation of the proposed development while ensuring minimal modification of regulations.

Respectfully submitted,

*Odette McDonald*

Odette McDonald PM

July 30, 2024

Chris Mak

Christopher Mak, Owner

July 30, 2024