

BEFORE THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT

APPLICATION OF:

**UPDATED: 9/9/2024**

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

STATEMENT OF APPLICATION

I. INTRODUCTION

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

3. Theoretical Subdivision Relief (C-§305): To construct a secondary principle detached building 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 Yard Setback Area Relief (F-§207.1): As a result of the application of theoretical subdivision, an additional second rear yard setback of 20 ft is required, specific for the proposed structure. An area variance is requested in relief of the additional 20 ft setback to accommodate the proposed development of a proposed 13 ft setback (7ft setback relief).

In summary, the Applicant requests relief to enable the construction of the Proposed Building in compliance with the outlined zoning regulations, specifically seeking special exemption approval for extension or enlargement, Voluntary Inclusionary Zoning Relief and theoretical subdivision, and area relief for a rear yard 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 SE 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 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 – Walkability and Amenities

Walkability and Public Transportation - 113 Wayne Place 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. The closest bus stop (A2 Line) is a block away at the corner of Wayne Pl SE and Mississippi Avenue SE.

Recreation and other services - Immediate area schools are Simon Elementary, Hart Middle, Ballou High and is 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, Bolling Air Force Base, Anacostia Naval Station, and Naval Research Laboratory. The parks are walkable and have been updated, which include Oxon Cove Park, Frederick Douglass National Historic Site, Anacostia Park, and Oxon Run Park. The nearest park, Oxon Run Park, is accessible in a 2-block walk and has playgrounds, trails, picnic areas, a swimming pool, baseball fields, basketball courts and more. The William O. Lockridge/Bellevue Neighborhood Library is less than half a mile away and walkable in 10 minutes.

### 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.

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

Special Exemption - Special exemption approval is required for the extension or enlargement of the development (U-§421.1), density (FAR) inclusionary zoning (Subtitle F-§201.4), and theoretical subdivision (C-§305). Special exemptions must meet the burden of proof as outlined in Title 11 DCMR Subtitle X-§901.2 and U-§421.1 (a).

Enlargement of Development (U-§421.1) – The proposed plans detail the construction of a detached six-unit, two story apartment building. As this would be an enlargement of the property, the standards of U-§421.1 – 421.4 must be met. In accordance with U-§421.1 the special exemption has been submitted to the Board of Zoning Adjustment (BZA) which is being considered through the review of this document which outlines how the applicant has met the burden of proof. This is discussed in detail combined with the other special exemptions in Section V – Burdon of Proof below. In accordance with U-§421.2, the nearby schools, public streets and transportation, recreation and other services which will accommodate the residents expected to reside in this project are detailed above in Section IIIB – the neighborhood and can sufficiently accommodate 6 new families. In accordance with U-§421.3, the applicant has incorporated all proposed amendments by the Office of Planning. Additional landscaping (bushes and shrubs) and 2 public benches were added and through discussions with Office of Planning, the placement of the proposed structure on the site plan was chosen as recommended by the Office of Planning as the location allowed for maximum distance to nearby structures for maximum light, through access and common space. In accordance with U-§421.4, the site plan with floor plans, elevations, grading, landscaping and right-of-way and easements is included in this BZA submission (Exhibits 6 & 7).

Density (FAR) inclusionary zoning (Subtitle F-§201.4) – One apartment unit in the proposed development will be voluntarily designated as an affordable housing unit in compliance with the Inclusionary Zoning standards and as such the proposed project would be

subject to the maximum permitted floor area ratio as outlined in Subtitle F-§201.4. The proposed plans require a floor area ratio of 1.00 and the maximum permitted floor area ratio as permitted for inclusionary developments for RA-1 zone is 1.08 which is below the maximum area allowed. In accordance with F-§201.4, the has been submitted to the BZA which is being considered through the review of this document which outlines how the applicant has met the burden of proof. This is discussed in detail combined with the other special exemptions in Section V – Burdon of Proof below.

Theoretical Subdivision (C-§305) – The proposed plans detail a secondary primary building to be constructed in the rear of the lot and as such, Section C-§305.1 – 305.8 shall apply. In accordance with C-§305.1, the special exemption has been submitted to the BZA which is being considered through the review of this document which outlines how the applicant has met the burden of proof. This is discussed in detail combined with the other special exemptions in Section V – Burdon of Proof below. In accordance with C-§305.2, for each of the two primary buildings, theoretical lot lines are drawn on the site plan to serve as boundaries for assessment. In accordance with C-§305.3, the proposed project meets the allowed side yard requirements of an 8 foot minimum, however a variance is needed from the 20 foot minimum rear yard variance for the theoretical lot applied to the proposed structure only. A variance of 7 feet is required for a proposed rear yard of 13 feet. This area variance is discussed in further detail in the paragraph below. There is no vehicular ingress or egress so width requirements are not applicable. Each of the two structures are below the 40 foot building height limit (36ft). In accordance with C-§305.4, the site plan with the plat, proposed theoretical lot lines, grading and landscaping plans, building footprints and yard details were submitted in this BZA submission (Exhibits 6 & 7). There are no applicable easements, proposed streets/fire apparatus roads. The floor plans and a zoning information table are included. In accordance with C-§305.5 through C-§305.8, the proposed site plans have been developed through the review and recommend from the Office of Planning and does not have an adverse effect on the present character and future developments of the neighborhood and public services.

Area Variance –Area variance approval is needed for the additional second rear yard setback (F-§207.1) which shall be required when a theoretical subdivision is applied. Area

variance exemptions must meet the burden of proof as outlined in Title 11 DCMR Subtitle X-§1002.1.

Rear Yard Setback (F-§207.1) – As a result of application of theoretical subdivision, both the proposed structure and the existing structure must meet the minimum yard measurement requirements. Based on the theoretical lot lines, the existing structure meets all the minimum yard measurement requirements, however the proposed structure requires a rear yard variance from the 20 foot minimum. A variance of 7 feet is required for a proposed rear yard of 13 feet. The area variance burden of proof is detailed in the following section.

#### V. BURDEN OF PROOF

Special Exemption - 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.

Area Variance Exemption - The burden of proof regarding an area variance is outlined below:

*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.*

To utilize the remaining lot occupancy and floor area ratio as provided under RA-1, the unique characteristics of the existing property necessitates the construction of a detached structure, for which the theoretical subdivision standards would apply. An area variance is requested as the strict application of a theoretical subdivision applied to this property would Result in peculiar and exceptional practical difficulties and exceptional and undue hardship.

Detached or Attached Structure - The only feasible and practical way to utilize the remaining unused lot occupancy and FAR would be through the construction of a detached building as the alternative, a building connection between a newly proposed structure and the original structure would be impractical. The existing building has apartment units located along the entire western side of the building and there is no common area or corridors in the existing building which can be connected to a potential building connection between the two structures. The entire footprint of the existing building would have to be redesigned to accommodate an interior corridor to connect to a building connection which would require moving/evicting the current residents and making these existing units smaller. Aside from redesigning the layout of the existing building, the building connection itself would be impractical to use and would be a burden to both residents in the existing building, the proposed building and neighbors in the lot to the north. As there are apartment unit

windows all along the western wall of the existing building the proposed building would need to be adequately from the existing structure, necessitating a long and narrow building connection between the two structures. This long and narrow building connection would be burdensome for residents of the proposed building to use as they would have to walk through an entire front building, through a long and narrow building connection, enter the lobby of their own building, then proceed to their apartment unit. This would be a maze of corridors spanning different buildings and stories with multiple sets of stairs as the topography of the lot is very steep. This would be burdensome for residents of the existing building as all neighbors going to the proposed building would need to walk by their apartments causing additional noise and disturbance. The building connection would also be burdensome for the neighboring lot to the north as residents of the building would have their rear yard cut off from access to the alley to the south. Thus, a building connection is highly impractical and burdensome, necessitating the design of the proposed building to be a detached structure.

**Peculiar and Exceptional Practical Difficulties** - As the proposed building must be a detached structure, the theoretical subdivision regulations would apply, however the strict adherence these regulations would result in peculiar and exceptional practical difficulties due to the property's lot size, dimensions and location and layout of the pre-existing occupied structure on the lot. Under the application of a theoretical subdivision, two minimum rear yard requirements would be required. As the minimum rear yard requirement is 20 feet for RA-1 zone, a combined 40 foot rear yard requirement would be in effect. The square footage and dimensions of the lot would create an undue hardship in applying two minimum rear yard requirements as the combined 40 foot rear yard requirement alone takes up almost 40% of the width of the entire lot (107ft). Application of two rear yard measurement requirements would make it impossible for this lot to utilize the allowed lot occupancy and floor area ratio that is provided under RA-1. Thus, a 7 foot rear yard measurement variance for the rear structure only is requested which would allow for a rear yard setback of 13 feet for the rear proposed building and 33 feet for the entire Project. This variance would allow more optimal placement of the rear building without detriment to neighboring structures. The rear proposed building would be further from the existing structure on 113 Wayne Pl SE (20 ft instead of

13 feet) as well as further from the nearest neighboring property to the north (21.5ft instead of 15.3). The neighboring property to the south is across a public alley and there is significant distance to the proposed structure (approximately 60 feet). To the west of the proposed structure and of the lot is a number of neighboring lots for which each rear yard extends to be long and very narrow to the southern alley. The dimensions and topography (heavily graded and a dense forest of trees) of these neighboring lots make the rear yards near the alley and near 113 Wayne Pl SE impractical for use for future development, making it extremely unlikely that any future neighboring structure may come close to the proposed structure. The closest existing neighboring structure to the west, is hundreds of feet away, on the other end of a dense forest of trees. Placement of the rear structure at this location would be more beneficial for all neighbors for distance, light, noise and through way considerations. Placing the rear building further to the west would also be beneficial to the entire neighborhood as the vacant unused space to the west is often a prime location of illicit activity as mentioned in the background section above and would help mitigate this issue.

In light of the project's merits and the specific circumstances at hand, the Applicant respectfully requests that the BZA exercise its discretionary authority to grant variance relief for the rear yard setback, 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 yard setback relief.

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 BZA grant the special exemptions and variance relief for the rear yard setback, to enable the reasonable use of the property, ensuring the minimum modification of regulations while affording relief.

Respectfully submitted,

*Odette McDonald*

Odette McDonald PM  
September 9, 2024

*Christopher Mak*

Christopher Mak, Owner  
September 9, 2024