

**BEFORE THE BOARD OF ZONING ADJUSTMENT  
OF THE DISTRICT OF COLUMBIA**

Application of Rear 304, 306 308 K Street LLC

**APPLICANT'S PRE-HEARING STATEMENT**

**September 21, 2025**

This Hearing Statement ("Statement") outlines the existing and proposed use of the property of application and the manner in which the application ("Application") complies with the specific tests and burden of proof for the variance sought in this application before the Board of Zoning Adjustment (BZA)

**NATURE OF RELIEF SOUGHT**

This is an application pursuant to 11 DCMR Subtitle X Chapter 10 § 1000.1, more specifically § 1001.2 for area variance to allow the subdivision of a single alley lot of record into three record lots not meeting the alley lot subdivision provisions set forth under Subtitle C, § 306.1 (a) (b) for the RF-1 Zone District within which the subject property is located, which require that newly subdivided lot front on an alley not less than twenty-four feet (24 ft.), and have access to a street through an alley not less than twenty-four feet (24 ft.) at any point respectively

The proposed three lots seek respective relief from applicable development standards as follows:

**LOT A**

Area Variance from Subtitle C §306.1 (a) (b) from the provisions that a new alley record lot abut a twenty-four feet (24 ft.) public alley and have continuous access through an alley not less than twenty-four feet (24 ft.) to a street.

The abutting alley width are approximately eighteen feet (18 ft.) and ten feet (10 ft.) respectively

Special Exception from Subtitle E, § 5100.1 (e) which requires a minimum setback of seven and one-half feet (7.5 ft.) from the centerline of the abutting alley. The North-South alley which abuts proposed LOT A is only ten feet (10 ft.), and the proposed building is therefore five feet (5 ft.) from the centerline of the alley.

Special Exception from the Use Provisions of Subtitle U, Section 600.1 (f) (4) (A) (B), to allow the proposed residential use, not meeting the requisite minimum 15 feet alley width leading to a street intersection

## **LOT B**

Area Variance from Subtitle C §306.1 (a) (b) from the provisions that a new alley record lot abut a twenty-four feet (24 ft.) public alley and have continuous access through an alley not less than twenty-four feet (24 ft.) to a street.

Special Exception for the Use Provisions of Subtitle U, Section 600.1 (f) (4) (A) (B), to allow the proposed residential use, not meeting the requisite minimum 15 feet alley width leading to a street intersection

## **LOT C**

Area Variance from Subtitle C §306.1 (a) (b) from the provisions that a new alley record lot abut a twenty-four feet (24 ft.) public alley and have continuous access through an alley not less than twenty-four feet (24 ft.) to a street

Special Exception from the alley lot development standards set forth under Subtitle E, Section 5100.1 (d) from the side yard setback requirement from an abutting non-alley lot

Special Exception for the Use Provisions of Subtitle U, Section 600.1 (f) (4) (A) (B), to allow the proposed residential use, not meeting the requisite minimum 15 feet alley width leading to a street intersection

Applicant notes that the special exceptions sought for Lot A from the setback from the alley center line and for Lot C from the side yard provisions of E, 5100.1 (e) and (d) respectively are further pursuant to Subtitle 5201.3 (a), including the special conditions as outlined below in this statement

## **SUMMARY OF APPLICATION**

The applicant seeks the above area variance and special exception to construct three new one-family Row buildings on the proposed subdivided record lots.

The subject property is located within the RF-1 zone district within which the proposed use as a one-family dwelling is permitted as a matter of right, save for the special exception sought from a specific condition applicable to the proposed use on alley lots.

The proposed project complies with all other applicable provisions of the Zoning Regulations, including maximum lot occupancy, minimum lot area, height, number of stories, and required parking.

## **JURISDICTION OF THE BOARD**

The application is properly before the BZA. The Board is authorized to grant the requested special exception and area variance under § 8 of the Zoning Act, DC Official Code § 6-641.07 (g) (2) (2001), as further set forth in 11 DCMR, Subtitle X, Chapters 9 and 10, §§ 900.2 and 1000.1 respectively.

## **PROPERTY LOCATION AND PROJECT DESCRIPTION**

The property is located in the North of Massachusetts Avenue (NOMA) neighborhood in the 300 block of K Street NE. The subject property is currently unimproved, irregular in shape and abuts two public alleys to its northern and western boundaries.

The north-south alley which connects K and L Streets NE is approximately ten feet (10 ft.) wide, whereas the east-west alley which runs perpendicular to the north south alley is unimproved and approximately eighteen (18 ft.) in width.

Each proposed alley lot improvement will comply with all other development standards applicable in its underlying RF-1 of location.

The subject property is an alley lot by definition and is located behind 304 through 308 K Street, lots which front on K Street NE

## **STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF (AREA VARIANCE)**

The Applicant, by preponderance of the materials submitted with this Application, facts to be presented in the course of the public hearing and further evidence to be submitted twenty-one days prior to the hearing date, will prove compliance with the three-prong test necessary for the granting of the area variance and special exception sought, as outlined below.

The Board is authorized to grant an area variance where a property demonstrates three characteristic elements:

1. The subject property must demonstrate a unique physical characteristic of shape or size, exceptional narrowness or shallowness which existed as of the time of the original adoption of the Zoning Regulations, or that there exists exceptional topographical conditions or other extraordinary or exceptional situation or condition of property;
2. That the physical characteristic(s), or extraordinary or exceptional situation or condition of the property makes the strict application of the Zoning Regulations result in peculiar and exceptional practical difficulties to the owner of the property;
3. That the Board is able to grant the variance without substantial detriment to the public good and without substantial impairment of the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

#### **EXTRAORDINARY OR EXCEPTIONAL SITUATION OR CONDITION OF PROPERTY**

The Subject Property comprised of a single record lot which is approximately five thousand, seven hundred and fifteen square feet (5,715 sf.) of land area.

The applicant contends that the contends that a confluence of factors create an extraordinary situation or condition of property as follows:

1. The subject property is uncommonly large for its RF-1 zone district of location wherein the minimum lot area is one thousand eight hundred square feet (1,800 ft<sup>2</sup>) for row dwellings.
2. The alley lot is irregular in shape and includes a panhandle portion.

3. The subject property is not only the largest alley lot in its Square of location, it is also the only unimproved alley lot.
4. The width of the abutting alleys have been fixed prior to May 12, 1958
5. The subject property is uniquely the only alley lot which abuts the East-West alley, which is approximately eighteen feet (18 ft.) wide, an uncommon alley lot width in itself

The unusually large lot is an anomaly in the RF-1 zone district, and it is lot size more common and prescribed in the second most restrictive R residential zone district (R-1-B district)

The applicant contends that the physical shape of the alley lot, its unusual size in the underlying RF-1 zone district, include the outlined confluence of factors converge to result in extraordinary situation and condition of property

#### **PECULIAR AND PRACTICAL DIFFICULTIES TO OWNER OF PROPERTY**

The development of the subject property as a single-family dwelling is 'impractical, unfeasible in its market area and will be incompatible in the neighborhood, which is predominantly improved with row dwellings, flats predominantly on approximately sixteen feet (16 ft.) wide lots, and large apartment houses.

That proposal is likewise subject to the same special exception relief sought in the instant application, even if the applicant had proposed the subject property for purposes of a single-family detached dwelling, without a subdivision of the existing record lot.

The subject property is bounded across the north-western alley by a seven-story residential building

The extraordinary situation or condition of property owing to the confluence of factors, result in peculiar and exceptional practical difficulties upon the owner if the applicable provisions are strictly enforced since the width of the abutting alley has been established prior to May 12, 1958, without any room for expansion of the alley width

Applicant intends to graphically represent the incompatibility of the foregoing option to the general architectural theme and fabric of the neighborhood in the course of additional submissions prior to and in the course of the hearing.

**SUBSTANTIAL DETRIMENT TO PUBLIC GOOD AND SUBSTANTIAL  
IMPAIRMENT OF INTENT, PURPOSE AND INTEGRITY OF THE ZONE  
PLAN**

The applicant seeks to construct three new one-family row dwellings, on lots which meet and exceed the minimum lot dimensions provisions set forth under Subtitle E, Chapter 2, § 202.1.

The proposed structures, save the special exception relief sought will otherwise comply with and exceed all other applicable development standards.

The proposed development is more compatible with the architectural fabric of the neighborhood which is predominantly improved with row dwellings and flats in lots less than eighteen feet wide, and larger residential development, albeit in adjoining lesser restrictive zone districts.

Under stated conditions, residential developments are permitted on much smaller lots, as small as four hundred and fifty square feet (see Subtitles C, § 306.3 (a) and U, § 600.1 (f)

(2))

The proposed project complies with all other requirements and provisions of the Zoning Regulations and would cause to be improved, an otherwise unimproved/vacant alley lot which is likely to remain unimproved due to market variables related to its size, including the confluence of factors which result in the extraordinary and exceptional conditions of property and attendant peculiar and exceptional practical difficulties upon the owner, absent the relief sought before the BZA.

The proposed project is intended to result in a development which will not be incompatible with the scale and character of the neighborhood.

### **COMPLIANCE WITH SPECIAL EXCEPTION STANDARDS**

As set forth under Subtitle X, Chapter 9, § 901.2, the Board of Zoning Adjustment is authorized 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.

The applicant further seeks special exception pursuant to Subtitle U, § 601.1 (f) subject to the conditions set forth under § 601.1 (f) (1) - (5) (a) – (f), (6) (a) – (e) from the provision of Subtitle U, § 600.1(f) (4) (B), which stipulates that a one-family dwelling shall have unimpeded access to an improved public street via an improved public alley not less than fifteen feet (15 ft.) wide within a linear distance of three hundred feet (300 ft.).



The subject property is within three hundred feet of both L and K Streets NE, but the north-south alley connecting these two streets is less than fifteen feet (15 ft.) wide.

Itemized below verbatim, are the conditions the Board must consider in granting the special exception sought as described above, including the application's compliance, save for those referrals which the applicant will engage each agency of referral for resolution of any concerns expressed or conditions proffered.

1. The Alley Lot is not wholly or partially within any of the R-1 or R-2 zones;

***The subject property is not wholly or partially within the R-1 or R-2 zones***

2. A building may not be constructed or converted for a dwelling unit unless the lot is an Alley Record Lot and there is a minimum of four hundred and fifty square feet (450 sq. ft.) of lot area;

***The proposed alley lots meet and is in excess of the minimum four hundred and fifty square feet prescribed herein, and the proposed subdivided lot***

3. The use shall be limited to one (1) dwelling unit per lot; accessory apartments are not permitted;

***The proposed use on all three subdivided ally lots are a one-family dwelling and an accessory apartment is not contemplated.***

4. The Alley Lot connects to an improved public street through an improved alley or system of alleys that provides adequate public safety and infrastructure availability;

***The alley lots will connect to an improved public street through improved alleys. Applicant intends to improve the east-west public alley at cost in the event DDOT is unable for any reason. Applicant refers to a proposed utility site plan which affirms that a sewer main exists in the north-south alley from which sewer laterals will be connected to serve the proposed lots. The utility site plan also reflects an easement through which the water, fire sprinkler wet utility line and dry power utility service will be connected to the respective mains located on K Street***

5. The Office of Zoning shall refer to the following agencies for their review and recommendation, if filed to the case record within the forty (40) day period established by Subtitle A § 211:

(A). Department of Transportation (DDOT);

(B). Department of Public Works (DPW);

(C). Metropolitan Police Department (MPD);

(D). Fire and Emergency Medical Services Department (FEMS);

(E). DC Water (WASA); and

(F). If a historic district or historic landmark is involved, the Historic Preservation Office (HPO); and

(6). The Board of Zoning Adjustment shall consider relevant agency comments concerning:

(A). Public safety;

(B). Water and sewer services;

(C). Waste management;

(D). Traffic and parking;

(E). Historic preservation; and

***Applicant intends to engage each agency or entity of referral to address concerns and recommendations as may be necessary. The subject property is not within any Historic District***

The reliefs from the applicable development standards pertaining to the centerline alley setback for Lot A and side yard setback for Lot C are pursuant to Subtitle E, Chapter 52 § 5201.3 (a), and are subject to the conditions set forth under §§ 5201.4 through 5201.7, including subsidiary subsections as applicable

5201.4 An application for special exception relief under this section shall demonstrate that the proposed addition, new building, or accessory structure shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, specifically:

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

*The proposed three lots are separated by public alleys from adjacent buildings north and west of their lots lines. The existing structure north of the subject lots is commercially occupied as plumbing supplies storage and has no fenestration on its south wall facing the subject lots. The plumbing supplies storage structure is separated by an approximate eighteen feet (18 ft.) unimproved public alley, and upon improvement by the applicant, that wall and the front face wall of the proposed dwellings will be separated by twenty-four feet (24 ft.)*

*The building located west of proposed Lot A is separated by an improved ten feet (10 ft.) public alley and comprises seven stories towering over the proposed dwelling on the proposed three alley lots. Moreover the building on Lot A will have no openings.*

*The side lot line wall of the proposed building on Lot C will not have any opening and abuts the rear lot of the immediate adjoining property, and an accessory storage structure; thus not for human habitation*

*For all the foregoing reasons, the applicant contends that the light and air available to neighboring properties will not be unduly affected by the proposed project*

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

*The existing alley lot (Lot 0065) is one of seven (7) lots within that portion of the Square bounded by K Street on the south, the north south alley on its western flank and a second north-south alley on its eastern flank.*

*The three-lot subdivision will increase the aggregate number of lots to nine (9). The proposed three alley lot subdivision will be the only alley lots within the foregoing cluster, hence all other lots have street frontage on K Street.*

*The applicant is the current owner of 304 and 306 K Street upon which two new buildings containing two dwelling units each have been constructed. With the exception of two lots east of the existing alley lot (0065), no other lots stretch the full depth of K Street and the unimproved east-west alley which bounds the existing and proposed alley lots subdivision.*

*These lots therefore form a common courtyard-type area where respective rear yards are opposite each other, part of which serve as parking spaces for the aggregate project. The rear faces of each building are removed far in excess of the required rear yard, hence the privacy of use and enjoyment of neighboring properties will not be unduly compromised.*

*The proposed building on proposed Lot C will be face-on-line and will not feature any fenestration or openings, likewise Lot A which is bounded by a seven-story building which towers over the two-story structure on. The three alley lots are abutted on the north by an existing building across an unimproved alley is the rear of the building devoted to a plumbing supplies storage with no opening and will be separated by twenty-four feet (24 ft.) post alley improvement,*

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

- (c) The proposed addition or accessory structure, together with the original building, or the proposed 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; and

***The proposed new buildings are visible only from abutting north-south and east-west alleys. The proposed buildings are limited to two stories and twenty feet (20 ft.) in height in zone district within which non-alley lots may be constructed to three stories above grade up to a maximum thirty-five feet (35 ft.) in height.***

***The proposed project is within the scale or less than that permitted by the applicable development standards in the underlying RF-1 zone district within which the subject property is located.***

***The proposed project is not visible from either K Street and L Street, which are the two streets bordering Square 0774 at its southern and northern flank, and as aforementioned, the building west of the alley lots is seven stories and located in the MU-5A zone district***

- (d) 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, new building, or accessory structure to adjacent buildings and views from public ways.

***The applicant has submitted sufficient to graphically represent the relationship of the proposed new buildings to adjacent buildings and views from public ways, but is open to filing additional documents as necessary***

5201.5 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.

***The Applicant is amenable to any special treatment the Board may deem necessary***

5201.6 This section shall not be used to permit the introduction or expansion of a nonconforming use, lot occupancy beyond what is authorized in this section, height, or number of stories, as a special exception.

***The proposed three alley lot subdivision and the proposed buildings will not introduce or expand any nonconforming use, lot occupancy beyond what is authorized in the section***

5201.7 Where an application requests relief from the alley centerline setback requirements under this section, the Office of Zoning shall refer the application to the following agencies for their review and recommendations, to be filed in the case record within the forty- (40) day period established by Subtitle A § 211:

- (a) District Department of Transportation (DDOT);
- (a) Department of Public Works (DPW);
- (b) Metropolitan Police Department (MPD);
- (c ) Fire and Emergency Medical Services Department (FEMS);
- (d) DC Water (WASA); and
- (e) If a historic district or historic landmark is involved, the Historic Preservation Office (HPO).

***The applicant has engaged the Department of Transportation (DDOT) and FEMS and will continue to engage these two Agencies, including obtaining a preliminary no objection from DC Water provisional wet utility plans***

## **CONCLUSION**

The Applicant submits that the instant application complies with all conditions for the granting of the requested area variance and special exception as outlined above and as shall be further documented, and respectfully requests that the relief be granted upon the satisfactory conclusion of the public hearing.

In proposing three lots which exceed the minimum lot dimensions for standard lots in the underlying RF-1 zone district, including proposing building footprint and density individually and collectively in the aggregate far less than allowed, the Applicant contends that the proposed project complies with the General Provisions for the RF zone districts, and those especially set for Alley lot developments.

Applicant notes that the proposed buildings façade has been setback distance to equal and to mimic the twenty-four feet (24 ft.) alley frontage width. The Applicant contends that traffic on the east-west alley upon which to lots front and the Applicant is to improve at cost, is likely to be limited to the occupants of the proposed development given the public alley ecosystem around its Square of location

## **WITNESSESS**

1. Gregory & Ina Igbozuruike
2. Ramy Alli. Architect

