

March 28<sup>th</sup>, 2025

Board of Zoning Appeal  
441 4th ST, NW  
Washington, DC 20001

RE:  
Special Exception at  
1311 6<sup>th</sup> St NW  
Washington, DC 20001

STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

**I. Introduction and Nature of Relief Sought**

This Statement is submitted on behalf of Yasmin Khan (known as the “Applicant”), owner of the property located at 1311 6<sup>th</sup> St. NW (Square 0480, Lot 0833) (the “Subject Property”). The Subject Property is an existing two-story with a cellar, four unit row building (the “Building”) located in the RF-1 zone.

The Applicant is proposing to construct a third-story addition to the existing Building (the “Project”). Accordingly, the following relief is required:

**1. Special Exception Relief from U § 320.2 pursuant to U § 301.4**

Subtitle U § 320.2 allows for the expansion of a multi-family unit. The building is not a purpose-built apartment and was converted from a single-family residential dwelling prior to 2015 to a four (4) unit multi-family building. The certificate of occupancy is provided under this application. This provides evidence of the existing condition.

This Project proposes to maintain the four units and requests relief to expand the existing unit areas.

**2. Special Exception Relief from E § 204 Architectural Elements**

The removal of the cornice and frieze shall not impact the light and air available to neighboring properties. The privacy and use of enjoyment of neighboring properties shall not be compromised by the proposed addition as it does not have any windows facing the adjacent property. The cornice and frieze do not match either adjacent building. In addition, the two adjacent building cornice and frieze are different. Therefore, the removal of the cornice and frieze and the third-floor addition would not visually intrude upon the character, scale, and pattern along 6<sup>th</sup> ST NW.

**3. Special Exception Relief from E § 207.1 pursuant to E § 5201.1 (b)**

Subtitle E § 207.1 requires a rear yard of twenty feet (20 ft) for the RF-1 zone. Due to the angle of the property line along the alley the rear yard setback ranges from fourteen feet seven- and one-half inch (14 ft 7.5 in.) to twenty feet three- and one-half inch (20 ft 3.5 in). This Project requests relief to reduce the rear yard setback.

4. Special Exception Relief from E § 207.4 pursuant to E § 207.5

Subtitle E § 207.4 limits a rear wall of a row or semi-detached building shall not be constructed to extend farther than ten feet (10 ft.) beyond the farthest rear wall of any adjoining principal residential building on any adjacent property.

The proposed third-floor addition will be twelve feet and three inches (12 ft. 3 in.) further than the building's rear facade to the north, 1313 6th ST NW. This Project requests relief to exceed the maximum ten feet (10 ft.) extension in the RF-1 zone.

5. Special Exception Relief from E § 210 pursuant to E § 5201.1 (a)

Subtitle E § 210.1 states the maximum permitted lot occupancy allowed for lots within the RF-zone is sixty percent (60%). The Project proposed a lot occupancy of sixty nine point two percent (69.2%) for the third floor addition. This Project requests relief to exceed the maximum lot occupancy in the RF-1 zone.

6. Area Variance from C § 303.4

Subtitle C § 303.4 states each new lot being created to be used and occupied by an apartment house shall have a street frontage measure along the street line a distance of not less than thirty feet (30 ft.). This is not a new lot and was created prior to 1958. Rather it is an existing tax lot that will be converted to a record lot with an existing width of twenty-four feet and four- and one-half inches (24 ft. 3.5 in.).

## II. Background

### A. **Description of the Subject Property and Surrounding Area.**

The Subject Property is located at 1311 6<sup>th</sup> Street NW and is in the RF-1 zone district. It is an irregularly shaped lot measuring 2,073 square feet in land area. Abutting the Subject Property to the North is 1313 6th Street NW, a commercial row building. Abutting the Subject Property to the East is a public alley. Abutting the Subject Property to the South are two single family row buildings: 1309 6th Street NW and 1307 6th Street NW. Abutting the Subject Property to the West is 6<sup>th</sup> Street NW.

### B. **Proposed Project**

The existing Building is two stories with a cellar level under the front half of the first floor. The Applicant is proposing to construct a third-story addition on top of the existing Building and to extend the cellar under the entire first floor. The building will maintain the existing four units.

The cellar will consist of a three (3) bedroom unit. The first floor will consist of a three (3) bedroom unit. The second floor will consist of a three (3) bedroom unit. The third floor will consist of a two (2) bedroom unit. The rear yard will provide one (1) parking spaces. The Project proposes a lot occupancy of sixty nine point two percent (69.2%).

### III The Applicant Meets the Requirements for Special Exception Relief

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#### A. Overview

Pursuant to Subtitle X § 901.2 of the Zoning Regulations, the Board is authorized to grant special exception relief where, in the judgment of the Board, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property, subject also, in this case, to the specific requirements for relief under Subtitle D § 1206.2 of the Zoning Regulations.

In reviewing applications for a special exception under the Zoning Regulations, the Board's discretion is limited to determining whether the proposed exception satisfies the relevant zoning requirements. If the prerequisites are satisfied, the Board ordinarily must grant the application. See, e.g., *Nat'l Cathedral Neighborhood Ass'n. v. D.C. Board of Zoning Adjustment*, 753 A.2d 984, 986 (D.C. 2000).

#### B. General Special Exception Requirements of Subtitle X § 901.2.

The granting of a special exception in this case "will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps" and "will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps ..." (11 DCMR Subtitle X § 901.2).

##### 1. Special Exception Relief will be in Harmony with the General Purpose and Intent of the Zoning Regulations and Zoning Maps.

The Zoning Regulations specifically permit the requested special exception relief for additional dwelling units, lower land area per dwelling unit, and accessory structures over the allowed maximum. The Project meets all other development standards of the RF-1 zone. Accordingly, the proposed Project and use will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps.

##### 2. Relief will not tend to affect adversely, the Use of Neighboring Property in accordance with the Zoning Regulations and Zoning Maps.

As described more fully below, the Addition will also not adversely affect the use of neighboring properties as the proposal meet all other development standards of the RF-1 zone and any potential impacts on light, air, and privacy do not rise to the level of undue.

#### C. The Application Meets the Specific Requirements of E § 5201.

The proposed third floor and cellar addition will maintain the existing four dwelling units per the certificate of occupancy. The third-floor addition will have a lot occupancy of sixty nine point two percent (69.2%) with front façade aligned with the walls below. The rear façade will extend twelve feet and three inches (12 ft. 3 in.) past the adjacent building's second-floor rear façade creating a rear

yard setback of fourteen feet seven- and one-half inch (14 ft. 7.5 in.) to twenty feet six inches and one-half inch (20 ft. 6.5 in.).

5201.4(a) The light and air available to neighboring properties shall not be unduly affected;

A shadow study is being submitted with this Application. The study shows the difference between a matter of right third floor addition and the proposed addition. As demonstrated by the shadow study, during the summer solstice, there is a some increase in shading at 9:00 am on the property to the north and at 3:00 pm on the property to the south. The additional proposed area only causes a minor increase in shading.

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

The privacy and use of enjoyment shall not be unduly compromised by the Project. The addition contains windows on the west front façade and the south side façade facing the open side yards between the Buildings. The side yard of the Building is nine feet zero and a half inches (9 ft 0.5 in.). All the windows on the south side are provided within the matter of right addition. Therefore, the privacy between a matter-of-right Addition and the proposed Addition does not rise to the level of undue.

(c) The proposed addition or accessory structure, together with the original building, or the new principal 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 or alley frontage; and

The area is an eclectic mix of two-story and three-story dwellings, rowhomes, and apartment buildings. This Building along with the two adjacent buildings are separated by the other buildings on 6<sup>th</sup> ST NW by open land. The proposed elevations continue the aesthetic of the two adjacent buildings maintaining the harmony between the three buildings.

The three buildings' rear facades extend to the property line at the alley with the existing condition to remain on the first and second floors. Furthermore, the proposed Project will use similar design elements as other properties in the area. Accordingly, the proposed Project, together with the original Building, as viewed from alleys, and other public rights of way, shall not substantially visually intrude upon the character, scale, and pattern of buildings along 6<sup>th</sup> ST NW and the public alley.

(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 or accessory structure to adjacent buildings and views from public ways.

The Applicant has included materials sufficient to represent the relationship of the proposed addition to adjacent buildings and views from public ways.

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 will comply with any special treatment.

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 Applicant is proposing to expand the existing nonconforming four dwelling units per subtitle U § 301.4 and by increasing the area of each unit. The Applicant is not proposing to introduce the expansion of lot occupancy beyond what is permitted in this section, height, or number of stories, as a special exception.

#### **IV The Applicant Meets the Requirements for Area Variance**

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We are requesting the Board of Zoning Adjustment (“BZA”) approves, through its authority pursuant to Subtitle X § 1000.1, relief to minimum 30-foot street frontage requirements that are required to create a lot for use for an apartment house, which is an area variance. An area variance is applicable per X § 1001.3(f) as the lot creation requirements of C § 303.4 are a precondition to the establishment of a matter of right use provided that the variance would not cause the proposed use to meet the definition of a more intense use.

The intent of the law was to restrict the dividing of lots into small slivers on its street side, which is not what has happened on this Project, in which a lot was on the site and stayed in place. The property street frontage is twenty-four feet and four- and one-half inches (24 ft. 3.5 in.). The existence of the lot with a pre-1958 existing building, the street frontage of which was set long before this subdivision and conversion to apartment house, is an exceptional condition. The adjacent lots with existing buildings on each side have different owners, which leaves no opportunity for the Applicant’s lot to be expanded along the street frontage. Purchasing an adjacent property is not practical due to its cost, and the owner’s having the discretion not to sell. The exceptional condition makes compliance with this Subtitle C § 303.4 a practical difficulty as the Applicant has no ability to widen its street frontage on an existing lot without requiring unnecessarily burdensome actions on the part of the Applicant.

The existing building maintained a Certificate of Occupancy (CO2002808) in 2020 for four units and labeled an apartment house when the previous owners purchased the property. This Certificate of Occupancy has been maintained and the purpose of this BZA application is to enlarge the existing four units. This property’s existing use is an apartment house for four units with an existing street frontage of twenty-four feet and four- and one-half inches (24 ft. 3.5 in.).

This lot was created in 1900 and has been continuously in use. However, it was a tax lot. Now that a building permit has been requested the lot is required to become a record lot making it a new lot. However, there are no physical changes to the size of the lot. It is an existing two thousand seventy-two square foot (2,072 SQ. FT.) lot with an existing street frontage of twenty-four feet and four- and one-half inches (24 ft. 3.5 in.). This is a Department of Building requirement for all new building permit applications that the lot is recognized as a record lot. However, the lot is not new. It has been in existence for over one hundred years. Additionally, it has already been approved as an apartment house with the approval of CO2002808.

An order by BZA approving this area variance would cause no substantial detriment to the public good as the lot and street frontage width has existed as-is since 1900, the existing use is for an apartment house, the ANC unanimously supports this project, and the project will restore the neglected property into a vibrant renovated residential building.

**V Conclusion**

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For the reasons stated above, this Application meets the requirements for a special exception relief and an area variance by the Board and the Applicant respectfully requests that the Board grant the requested relief and variance.

Sincerely,



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Agent

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