Statement of the Applicant
Request for Variance and Special Exception Approval
1525 A Street NE

On behalf of Emily and Patrick Rodgers (collectively, the "Applicants"), the owners of the property located at 1525 A Street NE (Square 1070, Lot 0052) (the "Property"), we are submitting this request for Special Exception relief from Subtitle E § 207.1, pursuant to Subtitle E § 5201.2, and Variance relief from Subtitle E § 210.1, under Subtitle X § 1002.1, of the Zoning Regulations. Specifically, the Applicants are seeking relief to allow for the construction of an elevated deck within the required rear yard, which exceeds the lot occupancy standards. As discussed below, the rear yard on this shallow and narrow lot is currently almost exclusively occupied by the on-site parking space (that must remain). As such, to allow for necessary outdoor living space for their growing family (including their very young child), the Applicants are proposing to construct an elevated deck over the existing parking space. Importantly, the proposed construction will not have any adverse impacts on adjacent properties and will be in keeping with the character of the surrounding community, as the block includes several similar structures. No objections have been raised by nearby neighbors. In fact, the immediately adjacent property owners have expressed their support for the application.

I. Board's Jurisdiction

The Board of Zoning Adjustment (the "Board" or "BZA") has jurisdiction to grant the Special Exception relief pursuant to Subtitle E § 5201.2 of the Zoning Regulations, in accordance with the provisions of Subtitle X § 901; and the Variance relief requested herein pursuant to Subtitle X §§ 1000.1 and 1002.1.

II. Site Location and Characteristics

The Property is located along A Street NE, approximately 90 feet west of its intersection with 16th Street NE, in the RF-1 zoning district. The Property has a sub-standard net lot area of approximately 1,310 square feet (compared to the 1,800 square feet minimum lot size required for row dwellings in the RF-1 zone) and is currently improved with an approximately 1,702 square foot, two-story (with English basement) row dwelling. The Property is also sub-standard in width: at approximately 17 feet wide, it is one foot narrower than the 18-foot minimum lot width required in the RF-1 zone. Notably, given the shallowness (approximately 77 feet) and narrowness of the lot, the existing rear yard is almost entirely occupied by the existing parking space.

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III. Requested Relief

The Applicants are requesting relief from the rear yard and lot occupancy requirements. Subtitle E § 207.1 requires a minimum rear yard of 20 feet in the RF-1 zone. Subtitle E § 210.1 allows for a maximum lot occupancy of 60% for single-household dwellings in the RF-1 Zone. Uncovered rear decks that are no more than 4 feet in height are allowed to occupy the rear yard (Subtitle B § 324.1) and are similarly exempt from the calculation of lot occupancy (Subtitle B § 312.4(h)). Additionally, uncovered porches and decks that are more than four feet in height but level with or below the main floor of the building, up to 200 square feet, are exempt from the calculation of lot occupancy. (Subtitle B § 312.4(g)).

Due to Applicants' shallow lot size, their proposed deck and on-site parking space (that must remain) are required to co-exist in the rear yard—an issue not faced by most other properties in the neighborhood that do not share the same limitations as the Property. As a result, the deck height must provide adequate clearance to accommodate a parking space and easily walk below. This height requirement, combined with the structural supports required for the deck, require that the top of the deck be at least one foot above the main floor of the existing building. For this reason, Applicants are not able to exclude the deck from the lot occupancy calculations or rear yard. Moreover, given the sub-standard size of Applicant's lot, any deck constructed to maintain less than 70% lot occupancy is not feasible, as it would provide *de minimis* usable outdoor space, defeating the purpose of the project. It is this confluence of factors driving Applicant's need for the requested relief, namely, special exception relief from Subtitle E § 207.1 to permit a minimum rear yard of 4'5" feet, and variance relief from Subtitle E § 210.1 permitting an overall lot occupancy of 75.6%.[1]

IV. Proposed Construction

To address the existing site constraints and accommodate the demands of a growing family, the Applicants are seeking relief to allow for the construction of an elevated rear deck to provide usable outdoor space while maintaining the pre-existing parking spot on the Property.

The Applicants recently welcomed their first child. As they now raise a young child in the City, the Applicants have an even greater need for usable outdoor living space. As noted herein, given the shallowness (approximately 77 feet deep) and narrowness (17 feet wide) of the lot and the presence of an existing parking space on the Property (which must remain), there is effectively no usable space in the rear yard. Specifically, the rear yard is only 25 feet deep. The existing parking space takes up 18 feet of the rear yard (*See* Subtitle C § 712.3(f) and 712.5). Additionally, as noted above, given the grade change on site, the rear yard is also occupied by a stair and necessary landing, which provide access to the main floor, and required trash can storage. The landing and the parking space combined occupy approximately 22 feet of the rear yard, leaving

[1] The existing stairway and landing, which are proposed to be rebuilt in connection with the project, are necessary to serve the main floor and thus are exempt from the lot occupancy calculation (Subtitle B § 312.4(e)) and excluded from the requested relief.

only approximately 3 feet remaining, practically yielding no use when a vehicle is parked in the space, as can be seen in the image below.



While there is an existing rear landing providing access to the main floor of the residence, as illustrated on the Existing Constraints Plan, submitted concurrently with this Statement, only a small area of that landing— approximately 8 x 2.5 feet (or approximately 20 square feet)—is usable space, as the other areas must remain clear to provide access between the rear stairway and off-set sliding glass doors that provide access to the main floor. This space fits two small chairs and a small table, and in every practical sense, is unusable for any outdoor activities.



As such, given these existing conditions and site constraints, the construction of an elevated deck is essentially the only way to create usable outdoor living space where the Applicants can spend time as a family.

There is no way to construct an elevated deck by-right, given the existing site constraints. Because the rear parking space must remain (and thereby necessitates a deck above 4 feet in height), any expansion of the current landing will, at a minimum, trigger Special Exception relief. Furthermore, given the structural supports and required clearance for a vehicle to park underneath,

the deck must necessarily be higher than the first-floor elevation of the existing house. As such, any expansion will count toward the lot occupancy. The Applicants explored whether there was an ability to construct the elevated deck through Special Exception relief (*i.e.* up to 69.9% lot occupancy), but for serval reasons, that is not feasible. Only 118 square feet can be added without triggering variance relief. While this additional space may provide sufficient usable area on another site, given the grade challenges presented by the residence and the existing parking space on the Property, that additional area provides very little truly usable space. This is because the additional stairway and necessary circulation, requisite to serve that deck, accounts for 52 square feet (or 50%) of the additional area to be constructed. As the Board can appreciate, the currently high construction costs challenge the feasibility of constructing such a project, for the very small incremental amount of usable space that would be provided (only approximately 20 square feet of additional usable space).

The proposed project adds only 79 square feet of additional deck space (above what would be allowed through Special Exception relief). But that additional 79 square feet makes a tremendous difference and is essential in providing *usable* outdoor space.

Finally, the proposed deck will not be visible from A Street NE and barely visible from 16th Street NE (discussed further below in section VI.B.i.(c) below). Further, Applicants' proposed deck will be in keeping with the character of the existing neighborhood. In fact, there are several existing elevated decks along the alley—including those much larger than that proposed by Applicants—as well as numerous accessory buildings, as shown below (*see* section VI.B.i.(b) below).

V. Purpose and Intent of Zone

The proposed construction is consistent with the general purpose and intent of the Zoning Regulations and Zoning Map. The Property is located in the RF-1 Zone. The Residential Flat zones are designed to provide for low-, moderate-, or medium-density residential areas suitable for residential life and supporting uses. (*See* Subtitle E § 101.2). The RF zones are specifically intended to "[r]ecognize and reinforce the importance of neighborhood character… aging in place, preservation of housing stock, [and] improvements to the overall environment…" (Subtitle E § 101.2).

The elevated deck will not change the nature of the existing house on the Property – the Property will continue to be used for single-family residential use. The proposed rear deck will simply allow for usable exterior living space that is better suited and able to accommodate the needs of the Applicants' growing family, allowing them to remain (and grow) in their current neighborhood, where Applicants hope to remain for the long-term. To this end, the proposed addition will reinforce the purpose of the RF-1 Zone.

The Property is located within the Capital Hill Area Element of the Comprehensive Plan. This Area Element recognizes that the parks and open spaces within the Capital Hill area are too limited to meet the neighborhood needs. (*See* page 15-12). This only furthers the importance of providing outdoor living opportunities on individual lots. Additionally, the Area Element

recognizes that "[p]arking remains an issue on Capitol Hill…" and that these parking problems are only compounded where individual homes do not have dedicated off-street parking spaces. (*See* page 15-13). The Project helps to address this issue through the retention of the existing on-site parking. Toward this end, the Applicants are proposing a creative design solution that will allow them to accommodate the needed exterior open space, while continuing to provide off-street parking.

VI. Special Exception Justification

Subtitle X § 901.2 permits the Board to grant a special exception where a proposed use will (1) be in harmony with the general purpose and intent of the Zoning Regulations and Zone Maps, and (2) not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps, subject to the specific conditions specified in the Zoning Regulations for each use. Subtitle E § 5201.4 of the Zoning Regulations sets forth additional criteria for special exception relief from the development standards of the RF-1 Zone, as discussed in detail below.

A. <u>The Special Exception Request Meets the General Special Exception Requirements of Subtitle X § 901.2.</u>

As discussed above (*see* Section V), the proposed elevated deck is consistent with the general purpose and intent of the Zoning Regulations and Zoning Map. The existing residential use of the Property will remain unchanged, but the proposed modifications will do so in a way that promotes the intent of the zone to allow families to age in place. The project also promotes the objectives of the Capitol Hill Area Element, by expanding on-site open space offerings, in a manner that allows for the retention of the existing off-street parking space.

B. <u>The Applicants Meet the Specific Requirements of Zoning Regulation Subtitle E § 5201.1 for Zoning Relief from Development Standards of the RF-1 Zone.</u>

Exceptions to the development standards of the RF-1 Zone are permitted, pursuant to Subtitle E § 5201.1, if the requirements of Subtitle X § 901.2 are met and subject to the following additional provisions:

i. Section 5201.4. An application for Special Exception relief under this section shall demonstrate that the proposed addition 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 compromised;

The light and air available to the neighboring properties will not be unduly affected by the proposed alteration. As demonstrated by the sun studies submitted concurrently with this Statement, the proposed elevated deck will cast very limited additional shadows on neighboring properties. Notably, the pergola will have an open design that allows light to pass through it. And,

as discussed below (*see* page 6), the adjacent rear yards are used for parking. For all these reasons, the Project will not have any adverse effect on the light and air available to neighboring properties.

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

The proposed modifications will not compromise the privacy, use, and enjoyment of the neighboring properties. The rear yards for the adjacent properties located at 1527 and 1523 A Street NE are both occupied as parking today, as shown below. As such, the proposed elevated deck will not intrude on the adjacent neighbors' privacy.

The Applicants have also incorporated a slatted privacy screen on the east façade, at the request of the adjacent neighbor, to provide a visual barrier between the porch and the adjacent property. Both neighbors have expressed their support for the proposed construction.

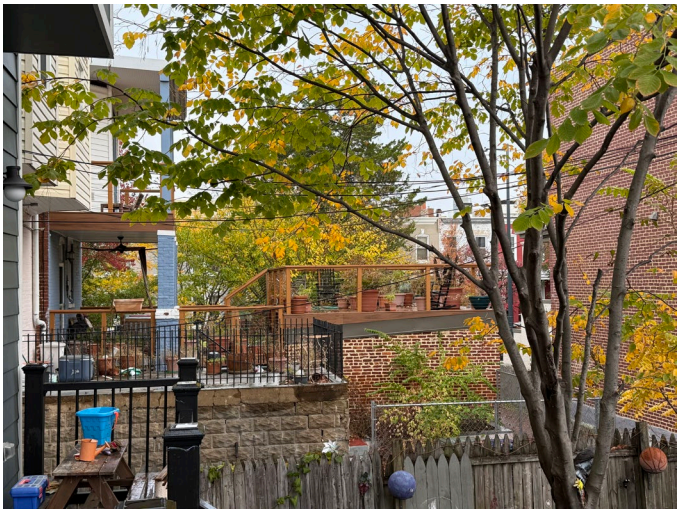
Additionally, as noted above (*see* page 4), several other homes on this alley already have a similar condition to what is being proposed. For example, the images below show multiple elevated rear decks visible from Applicants' current landing. In every direction, a deck similar to the one Applicants propose is prominently visible.



View to the Right of Applicants' Rear Landing



View Across from Applicants' Rear Landing



View to the Left of Applicants' Rear Landing

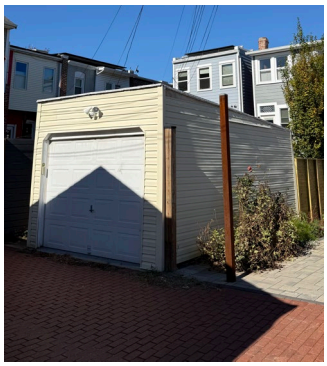
In fact, elevated rear decks and accessory structures are a defining feature of the Applicants' alley. Beyond those visible from Applicants' landing, many more exist, including the following:



1520 East Capitol St NE



1524 East Capitol St NE



1507 A St NE

With all these elevated decks on the same alleyway, Applicants' proposal is undoubtedly consistent with the character of the surrounding neighborhood.

> *c) The proposed 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 or alley frontage;*

As indicated by the photos submitted as part of this application (and as shown above), the proposed elevated deck will not visually intrude upon the character, scale, and pattern of houses along the subject street or alley frontage. In fact, the proposed elevated deck will not be visible at all from A Street. The elevated deck, although visible from the alley, will be in keeping with the character of the existing alley. As shown in the images above, several of the surrounding homes have elevated decks, and there are also numerous enclosed accessory structures, which visually have greater perceived mass, as compared to the largely open aired deck. Indeed, at the 16th Street entrance to the alleyway leading to Applicants' proposed rear deck, an accessory structure comprised of one-story garage *with an outdoor deck on top* is prominently visible, almost entirely obscuring any view one may have of Applicants' proposed deck from 16th Street, shown below.



d) In demonstrating compliance with paragraphs (a), (b), and (c) of this subsection, the Applicants shall use graphical representations, such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the proposed addition to adjacent buildings and views from public ways;

The photographs and architectural drawings submitted concurrently with this Statement demonstrate that the proposed deck is compatible with the surrounding area and will not have any adverse impacts on the adjacent property or surrounding neighborhood.

VII. Variance Justification

While the Board is able to approve lot occupancy relief up to 70% by Special Exception in the RF-1 Zone, because the elevated deck is slightly over this allowance, the Applicants are seeking variance relief from the Board. Specifically, the elevated deck will have an overall lot occupancy of 75.6%.[2]

The Board is authorized to grant variance relief, pursuant to Subtitle X §§ 1000.1 and 1002.1(b), as authorized under § 8 of the Zoning Act, D.C. Official Code §6-641.07(g)(3), where it finds that: (1) the Property is affected by exceptional narrowness, shallowness, shape, topography, or other extraordinary situation or condition; (2) as a result of these specific attributes of the property, the strict application of a zoning regulation would result in exceptional and undue hardship upon the owner of the Property; and (3) the variance can be granted 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. As demonstrated below, the Applicants meet these required findings.

A. <u>The Property is affected by exceptional narrowness, shallowness, shape, topography, or other extraordinary situation or condition.</u>

The phrase "other extraordinary or exceptional situation or condition" applies to both the characteristics of land <u>and the existence of improvements on the land</u>. *See Clerics of St. Viator, Inc. v. D.C. Bd. of Zoning Adjustment*, 320 A.2d 291, 294 (D.C. 1974) (*emphasis added*). The "extraordinary or exceptional situation or condition" may also arise from a confluence of factors that affect a single property. *See Gilmartin v. District of Columbia Bd. of Zoning Adjustment,* 579 A.2d 1164, 1168 (D.C. 1990).

Here, the Property is characterized by an exceptional situation and condition arising from both the characteristics of the land and the existing improvements, including: (1) the existing topography (*i.e.,* the rise in elevation that requires a stair and landing to provide access to the main

[2] The proposed lot occupancy of 75.6% excludes the required stairs and landing that will remain and continue to provide necessary access to main floor, and thus, are excluded from the calculation of lot occupancy.

floor from the rear yard); (2) the exceptional narrowness/shallowness of the lot, which is almost 500 square feet smaller than the minimum lot size in the RF-1 Zone, is one foot narrower than the required minimum lot width (*i.e.*, 17 foot wide, compared to the 18 foot minimum lot width required), and shallower than the vast majority of lots on the block (as discussed further below); and (3) the presence of an existing parking space that must remain and effectively occupies the entire rear yard. Collectively, these conditions preclude the Applicants from being able to create usable outdoor living space on their property without the proposed relief.

There are 40 RF-1 zoned lots within the Property's block. Of them, only 29 lots have alley access (and thus, only 29 of these RF-1 zoned lots *potentially* have to contend with the same constraints presented by the off-street parking). Furthermore, of those 29 lots with alley access, only 14—*less than half*—have a lot depth of 77 feet (like the Property). The remaining 15 lots have a depth between 93 to 128 feet.

This additional depth is significant, as it provides between 16 and 51 additional feet of lot depth, as compared to the Property, which is more than sufficient to accommodate a compact parking spaces (*i.e.* 16 feet long) *and* usable outdoor space. Of the 14 lots that have a depth of 77 feet, only eight (8) have parking on-site today. What we cannot tell, with the information available to us, is whether any of those eight (8) lots have a more favorable first-floor elevation that would allow them to take advantage of the lot occupancy exemption under Subtitle B § 312.4(g), which the Applicants cannot. Indeed, it appears that at least the home at 1524 East Capitol Street NE does *not* share the same elevation disadvantage as the Property, as the garage and rear deck on that property appear to be level with the first floor yet able to accommodate on-site parking.



Alley View of 1524 East Capitol Street NE

As explained in detail above and as shown on the Height Study, in order for the top of the proposed deck to be level with (or below) the main floor of the existing building, to qualify for the exemption under Subtitle B § 312.4(g), after accounting for the thickness required for the structural support, less than 5' 5" of clearance would remain. This clearance is not sufficient to accommodate parking for a vehicle.

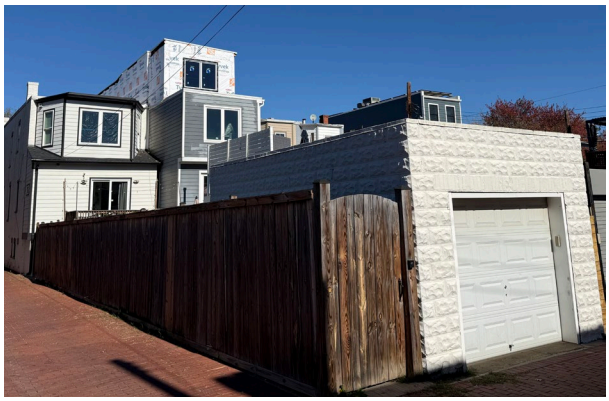
This is important, as the shallow lot depth and the presence of the existing parking (which must remain) drive the need for the height of the proposed deck and therefore, the requested relief. Because of the shallow lot depth, the rear yard and parking must co-exist, with the elevated deck *above* the parking spot. That is not the case for the deeper lots within the block. For example, on the property located as 1519 A St NE, which has a depth of approximately 128 feet, there is space for a rear elevated deck, additional usable outdoor space, *and* parking. And on the property located at 1517 A St NE, which also has a depth of approximately 128 feet, there is an enclosed garage *and* a rear elevated deck, complemented by even more usable outdoor living space.



Google Maps Image of 1517 (L) and 1519 (R) A St NE

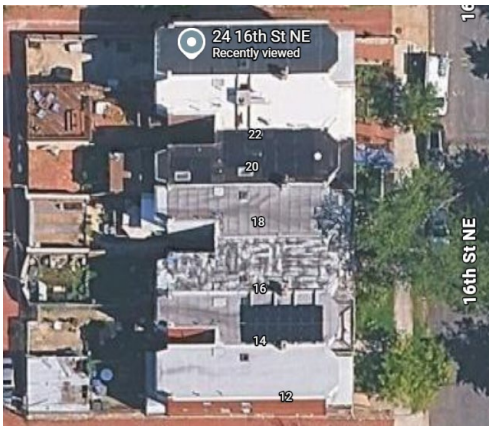


Alley View of 1519 A St NE



Alley View of 1517 A St NE

Even those properties with 93 feet of depth, for example, the homes at 12 through 24 16th Street NE, all plainly have space for both off-street parking and usable outdoor living space without the need for a variance.



Google Maps Image of 12-24 16th Street NE



Garage and Rear Deck at 22 16th Street NE

The existing parking spot on the Property drives the need for the elevated deck, as the deck must be constructed at a sufficient height to provide adequate clearance for the car below—a disadvantage uniquely applicable to Applicants' extraordinarily shallow and narrow lot. The deck also must be wide enough to accommodate not only the width of a car but also the turning radius that is necessary given the narrow alley configuration on this block. Because the alley is only approximately 10 feet wide, this turning maneuver is very tight. This requires the structural supports for the deck to be spaced far apart to provide adequate clearance below, which also drives the associated width of the deck above. It is this confluence of factors that precludes the proposed deck from being exempt from the lot occupancy calculation under Subtitle B § 312.4(g) and thus, triggers the requested relief.

B. <u>The strict application of the zoning regulations would result in exceptional and undue hardship.</u>

Strict application of the Zoning Regulations will result in exceptional and undue hardship to the Applicants by precluding them from access to the necessary outdoor living space to accommodate their growing family in the existing row dwelling, consistent with the intent of the zone. As discussed, there is effectively no room for the Applicants to use any of its rear outdoor space without relief – the Applicant's would either need relief to remove the existing parking space or relief to allow for the elevated deck. Removing the existing parking space is neither practical nor desirable, given the limited on-street parking currently available near the Applicants' home, which is only going to be compounded by the planned redevelopment of RFK campus. In fact, the Capitol Hill Area Element specifically recognizes the challenges with parking in Capitol Hill. The Capital Hill Area Element notes that the lack of off-street parking on individual residential lots is a contributing factor to this issue and thus, removal of the parking space would be inconsistent with the Area Element.

To address this hardship, the Applicants have devised a creative solution that allows them to provide necessary open space on their property, while retaining the existing parking space. Further, the proposed elevated deck will not add any enclosed area and as such, has been designed to minimize visual impacts. For all these reasons, the Applicants would experience exceptional and undue hardship if the relief is not granted, as that would preclude any usable outdoor living space and would frustrate their ability to remain (and grow) their family here. And as discussed in Section IV above, there is no feasible means to accomplish this outdoor living space without the requested relief.

C. The Variance relief requested can be granted 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 variance will allow for the construction of a modest, elevated deck, which, as discussed above (*see* section VI.B.i.(b)), is keeping with the existing character of the surrounding neighborhood. The proposed design is similar in character to many of the neighboring properties, several of which have elevated decks and accessory structures in their rear yards. Because the proposed deck is consistent with what already surrounds the Property, it is no surprise that Applicants' neighbors support it.

Further, as also discussed above (*see* section V), the proposal will promote many goals and objectives of the RF-1 Zone and the City, as expressed through the Comprehensive Plan. As such, the variance application will not substantially impair the intent, purpose and integrity of the zoning regulations and map. Nor, as discussed above (*see* section VI.B.i.(b)), will the proposal unduly affect the light and air available to neighboring properties.

The Property will continue to be used for single-family residential use. The variance will not cause substantial detriment to the public good but rather, will promote an important public policy objective of promoting retention of families and allowing them to age in their existing homes within the City.

VIII. Conclusion

For the reasons set forth above, we respectfully request the Board of Zoning Adjustment's approval of the requested Special Exception and Variance. The proposed Applications are compatible with the surrounding neighborhood and will importantly, allow the Applicants to remain and continue to raise their family in their existing home.

Respectfully submitted,



Elizabeth Rogers