

# Burden of Proof

## Special Exception and Area Variance Application

### 520 Groff Court NE

**To:**           **The Office of Zoning**  
Government of the District of Columbia  
Suite 210 South  
441 4<sup>th</sup> Street, NW  
Washington DC 20001

**From:**       **Jennifer Fowler**  
Agent/Architect  
1819 D Street SE  
Washington, DC 20003

**Date:**        March 24, 2019

**Subject:**    **BZA Application, Benson Addition**  
520 Groff Court NE (Square 779, Lot 179)

Kara Benson, owner and resident of 520 Groff Court NE hereby applies for zoning relief pursuant to Subtitle X, Chapters 9 and 10, to build a two-story side addition on her existing alley dwelling. The aspects of the proposed project that fall outside the current zoning regulation are as follows:

Relief Requested:

- Area Variance from the alley centerline setback requirements for alley lots pursuant to Subtitle E 5106 for both the front and side alleys.
- Area Variance from the height requirements for alley lots pursuant to Subtitle E 5102.
- Special Exception for a reduction in the minimum side yard requirement for alley dwellings pursuant to Subtitle E 5204.
- Special Exception for the expansion of a non-conforming structure (C-202.2) pursuant to E-5201.

*The proposed side addition will be similar in size to the existing alley dwellings and will therefore not be setback 12.0' from the centerline of the alley as required under Subtitle E 5106.1. The front of the side addition will follow the same line of buildings as the existing alley dwellings, therefore, the proposed setback from the front alley will remain at 10.0'. The proposed side addition will go to the property line and will therefore be setback only 5.0' from the side alley centerline.*

*The proposed side addition will follow the line of the existing buildings on the alley and will therefore not have a side yard. Relief is requested from Subtitle E 5204 for a reduction in the minimum side yard requirement.*

*The proposed side addition will follow the height of the existing alley dwellings in the square. Therefore, relief is needed from Subtitle E 5102.1 because the proposed height of the side addition will be 24'-4", 4'-4" higher than the maximum 20' height allowed under Subtitle E 5102.1.*

*The existing alley dwelling is a non-conforming structure and relief is requested pursuant to Subtitle E 5201 for the proposed expansion.*

## **Variance Requested:**

- *Area Variance from the alley centerline setback requirements for alley lots pursuant to Subtitle E 5106 for both the front and side alleys.*
- *Area Variance from the height requirements for alley lots pursuant to Subtitle E 5102.*

### **I. Qualification of Variance**

#### **1002 Variance Review Standards**

**1002.1** *The standard for granting a variance, as stated in Subtitle X § 1000.1 differs with respect to use and area variances as follows:*

- (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 the owner of property;*

#### **General Provisions - Subsection 1000.1:**

*With respect to variances, the Board of Zoning Adjustment has the power under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(3) (formerly codified at D.C. Official Code § 5-424(g)(3) (2012 Repl.)), "[w]here, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the original adoption of the regulations, or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under D.C. Official Code §§ 6-641.01 to 6-651.02 would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, to authorize, upon an appeal relating to the property, a variance from the strict application so as to relieve the difficulties or hardship; provided, that the relief 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."*

This provision has three main tests that must be proved by the applicant:

- 1.) *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 the owner of property;*
- 2.) *Granting the application will not be of substantial detriment to the public good – ie. traffic, noise, lighting, etc.*
- 3.) *Granting the application will not be inconsistent with the general intent and purpose of the Zoning Regulations and Map.*

#### **Variance from the alley setback requirement of an alley dwelling pursuant to Subtitle E 5106:**

*The physical characteristics of the property make it difficult for the owner to comply with the Zoning Regulations:*

1. The existing row dwellings, alley structures and rear garages have established a precedent for a setback of 10'-0" in the front alley and 5'-0" in the side alley from the centerline of the alley.
  - a. The existing alley dwellings facing Groff Court (512 Groff Ct – 520 Groff Ct.) are already set back 10'-0" from the centerline of the alley.

- b. The existing row dwellings facing 3<sup>rd</sup> Street and 4<sup>th</sup> Street are aligned with the edge of the alley line and are therefore only set back 5'-0" from the alley centerline.
2. The narrow width of the alleys and the presence of structures built to the edge of the alleys already restrict the use of the alley.
3. Historical Baist maps (Exhibit A) prove that an alley dwelling once occupied the proposed footprint and aligned with the edges of the alley lines, thus not following the required alley centerline setbacks.

*Granting of the relief will not be of substantial detriment to the public good:*

1. The proposed alley dwelling expansion will not add to the amount of traffic, noise or light. The proposed addition will not increase the number of occupants, or decrease the number of parking spaces. It will not unduly impact the light, air, privacy, and use and enjoyment of the adjacent properties.
2. The proposed side addition will continue the same setbacks that have been established on both sides of the alley by other dwellings, garages, and fences.

*Granting the relief will not be inconsistent with the general intent and purpose of the Zoning Regulations and Map:*

1. The proposed alley dwelling expansion is consistent with the scale and massing of most of the alley dwellings structures on Groff Court NE.
2. The 2'-0" - 7'-0" decrease in the alley setbacks will have minimal impact on the immediate area that is already very dense.
3. Many of the existing adjacent properties currently do not adhere to the current zoning regulations with regards to alley setbacks. As a result, the alleys in front and to the side of the property are extremely dense.
4. An alley dwelling similar in scale and massing once occupied the same footprint as the proposed addition.

**Variance from the non-conforming height of an alley dwelling pursuant to Subtitle E 5102:**

*The physical characteristics of the property make it difficult for the owner to comply with the Zoning Regulations:*

1. The existing alley dwellings at 512-520 Groff Court NE follow a similar building height. The proposed height will match the existing dwelling at 520 Groff Court and will therefore make the proposed addition match the aesthetics of the existing alley dwellings.
2. Historical Baist maps (Exhibit A) prove that an alley dwelling once occupied the proposed footprint and would therefore have followed a similar massing as the existing houses. The proposed side addition attempts to maintain that massing to ensure historical context.

*Granting of the relief will not be of substantial detriment to the public good:*

1. The proposed alley dwelling expansion and non-conforming height will not unduly impact the light, air, privacy, and use and enjoyment of the adjacent properties since it will not be taller than the existing alley dwellings along Groff Court.
2. The proposed side addition will be similar in massing to the existing alley dwellings on Groff Court.

*Granting the relief will not be inconsistent with the general intent and purpose of the Zoning Regulations and Map:*

1. The proposed alley dwelling expansion is consistent with the scale and massing of most of the alley dwellings structures on Groff Court NE.
2. Many of the existing adjacent properties currently do not adhere to the current zoning regulations with regards to alley dwelling heights.
3. An alley dwelling similar in scale and massing once occupied the same footprint as the proposed addition.

### **Special Exceptions Requested:**

- *Special Exception for a reduction in the minimum side yard requirement for alley dwellings pursuant to Subtitle E 5204.*
- *Special Exception for the expansion of a non-conforming structure pursuant to Subtitle E 5201.*

## **I. Qualification of Special Exception**

### **901 Special Exception Review Standards**

*The Board of Zoning Adjustment will evaluate and either approve or deny a special exception application according to the standards of this section.*

*The Board of Zoning Adjustment is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2), 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;*

The existing square is extremely dense with many existing alley dwellings. The proposed side addition will be in scale with the existing dwellings in the alley. The proposed addition will be constructed with high quality materials similar to those on the existing dwellings. Additionally, the Baist Map from 1967 showed an existing dwelling at the corner of the alley, similar in size to the proposed addition and the existing alley dwellings (Exhibit A).

- b. *Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and*

**The light and air available to neighboring properties shall not be unduly affected.**

### **518 Groff Court NE**

518 Groff Court NE lies to the south of the proposed side addition at 520 Groff Court NE. The proposed side addition will be on the north side of the existing dwelling at 520 Groff Court NE. The proposed addition will be similar in size to the existing dwellings at 518 and 520 Groff Court NE. A proposed rear bay will extend 4'-0" past the rear of the existing houses at 518 and 520 Groff Court, but will be 13'-6" to the north of 518 Groff Court NE. The proposed bay will be far enough away from the house at 518 Groff Court that it will have little impact on the light and air available to the house or rear yard at 518 Groff Court. The lack of a side yard will not affect 518 Groff Ct because they are located on the north side of the property. Additionally, the proposed height will not be higher than the existing dwellings at 518 and 520 Groff Ct. Therefore, given the location and size of the side addition, the proposed project will have a little impact on the light and air available to 518 Groff Court NE.

### **Neighbors to the West**

Additional alley dwellings are located to the west of the proposed addition at 520 Groff Court NE. These neighbors are separated from 520 Groff Ct by the existing 22'-8" rear yard at 520 Groff Ct and the existing 10' wide public alley. The proposed addition at 520 Groff Ct will not extend beyond the existing line of houses at 520 Groff Ct, except for the proposed rear bay. The proposed 2-story bay is only 4' deep and 9' wide. Given the existing rear yards and existing alley, the proposed side addition will have little impact on the light and air available to the neighbors to the west.

### **Neighbors to the North**

There are additional row dwellings (off F Street NE) and garages to the north of the proposed addition at 520 Groff Court NE. These neighbors are separated from 520 Groff Ct by the existing large rear yards and the existing 10' wide public alley. The proposed addition at 520 Groff Ct will line up with the existing property line and line of dwellings to the east. Given the existing large rear yards and existing alley, the proposed side addition will have little impact on the light and air available to the neighbors to the north.

### **Neighbors to the East**

There are additional row dwellings (off 4th Street NE) to the east of the proposed addition at 520 Groff Court NE. These neighbors are separated from 520 Groff Ct by the existing large rear yards and the existing 20' wide Groff Court. The proposed addition at 520 Groff Ct will line up with the existing property line and line of dwellings to the east. The proposed side addition will not be any taller than the existing dwellings on Groff Court. Given the existing large rear yards and existing wide court, the proposed side addition will have little impact on the light and air available to the neighbors to the east.

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

### **518 Groff Court NE**

The proposed side addition at 520 Groff Court NE will not unduly compromise the privacy or enjoyment of neighbors at 518 Groff Ct NE. The existing privacy fence will remain along the shared property line, thus prohibiting views between the two yards. The proposed side addition will be on the north side of the property and will not allow any views into the rear yard at 518 Groff Ct. The proposed rear bay may allow some views into the rear yard, but the bay will be separate from the rear yard at 518 Groff Ct by 13'-6".

### **Neighbors to the West**

The proposed side addition at 520 Groff Court NE will not unduly compromise the privacy or enjoyment of neighbors to the west. A new retaining wall will be installed along the rear property line that will be approximately 9' above the alley grade (6' above the rear yard). This will help obstruct many views into the dwellings to the west. The proposed addition at 520 Groff Ct will not extend beyond the existing line of houses at 520 Groff Ct, except for the proposed rear bay. The proposed 2-story bay is only 4' deep and 9' wide. The proposed side addition will have windows along the rear wall, but they will be separate from the dwellings to the west by the existing rear yard at 520 Groff Ct and the 10' wide public alley.

### **Neighbors to the North**

The proposed side addition at 520 Groff Court NE will not unduly compromise the privacy or enjoyment of neighbors to the north. The proposed side addition will have some windows along the northern wall, but they will be separate from the dwellings to the north by the existing large rear yards, existing garages, and the 10' wide public alley between the proposed addition and the existing dwellings to the north.

### **Neighbors to the East**

The proposed side addition at 520 Groff Court NE will not unduly compromise the privacy or enjoyment of neighbors to the east. The proposed side addition will have windows along the front (eastern) wall, but they will be separate from the dwellings to the east by the existing large rear yards and the 20' wide Groff Court between the proposed addition and the existing dwellings to the east. The proposed side addition will line with the existing alley dwellings on Groff Court, which already provide some views into the rear yards to the east.

### **5204 Special Exception Review Standards**

#### **5204 SPECIAL EXCEPTION CRITERIA ALLEY LOTS**

*5204.1 The Board of Zoning Adjustment may approve as a special exception a reduction in the minimum yard requirements of an alley lot in an RF zoning and may be approved as a special exception pursuant to Subtitle X, Chapter 9.*

The reduction in the minimum side yard requirements will allow the proposed side addition to follow the lines of the existing structures on the alleys. The reduction in minimum side yard requirements will not affect light and air available to neighboring properties nor will it unduly compromise the privacy of use and enjoyment of neighboring properties.

### **902 Application Requirements**

*An application for a special exception and an area variance shall meet the requirements of Subtitle Y § 300.*

Along with this application, we have included the following items:

- a) Photos of the existing house and surroundings;
- b) Plan and elevation drawings of proposed addition, including a site plan showing the relationship of the proposed addition to adjacent buildings.
- c) Official Plat from the DC Office of the Surveyor.

If you require any further clarification or have any questions regarding the application, we are available at any time to discuss them with you.

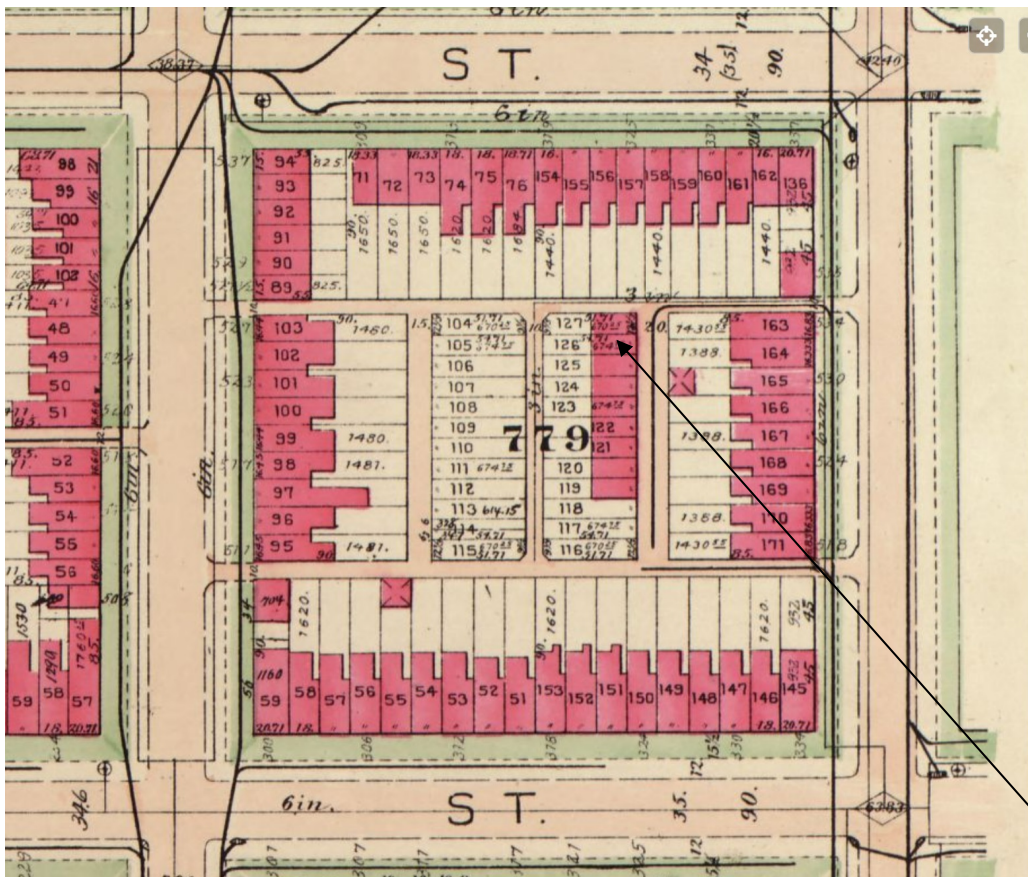
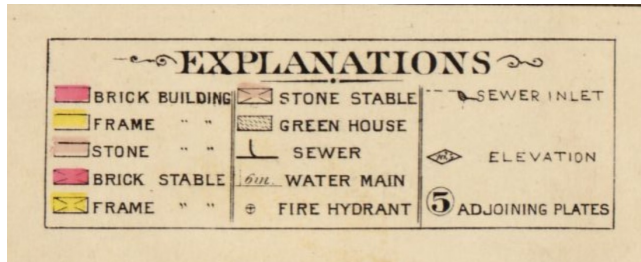
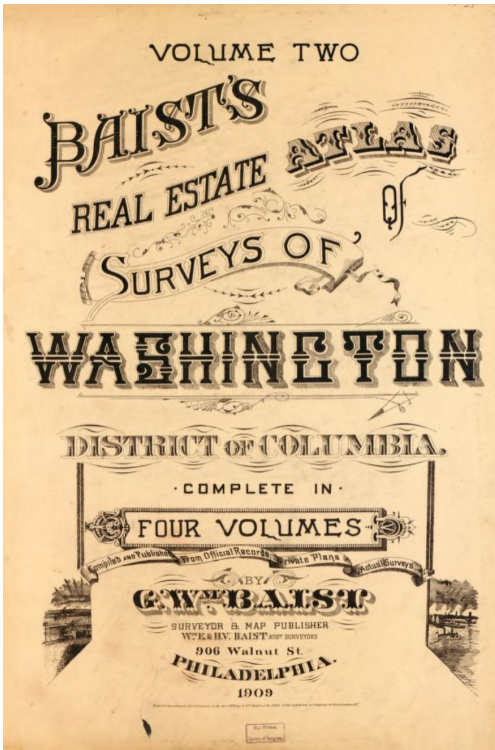
Thank you,



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EXHIBIT A: 1909 Baist Map of Square 779



520 Groff Ct NE