

## **BURDEN OF PROOF**

**Owner:** Donald Fulp

**Address:** 3032 24<sup>th</sup> St NE, Washington, DC 20018

**Square/Lot:** 4250/28

**Zoning District:** R-1-B

### **TO:**

D.C. Board of Zoning Adjustment

441 4<sup>th</sup> St NW Suite 200S

Washington, DC 20001

## **BURDEN OF PROOF STATEMENT**

Special Exception Application

### **I. Nature of Application**

This is an application by Donald Fulp ("Applicant") for special exception relief from the requirements of Zoning Regulations to permit the replacement of an existing 1-story, structurally-compromised garage with 2-story accessory building containing a garage on the lower level and an accessory dwelling unit on the second level. The new accessory building will change the footprint of the existing garage slightly. The application requests special exception relief pursuant to 11 DCMR Subtitle X, Chapter 9. The new structure will conform to the zoning regulations in all other ways.

### **II. Jurisdiction of the Board**

The Board has jurisdiction to grant the relief requested pursuant to 11 DCMR Subtitle D § 5201.2: "For a new or enlarged accessory structure to a residential building with only one principal dwelling unit on a non-alley lot, The Board of Zoning Adjustment may grant relief from the following development standards as a special exception, subject to the provisions of this section and the general special exception criteria at Subtitle X, Chapter 9:

- (a) Lot occupancy as limited in Table D § 5201.1(a);
- (b) Maximum building area of an accessory building;
- (c) Yards, including alley centerline setback; and
- (d) Pervious surface.

### **III. Information Regarding the Property and Project**

#### **a. The Project**

The subject property is located at 3032 24<sup>th</sup> Street NE in an R-1B zone. It is a rectangular shaped lot measuring 5,166 sq ft. in land area. Adjacent to the North and South sides of the property are single family homes on through lots (running from 24th Street NE to Thayer Street NE); and additional single family homes are located to the West, across Thayer Street NE. On the rear of the subject lot is a garage which will be rebuilt as a garage with an accessory dwelling unit above.

The applicant proposes to demolish the current car garage structure and construct a new garage with an accessory dwelling unit above the garage. The new garage at 21 feet 8 inches in height will be in compliance with the R-1B zone height requirement; as it will be less than the maximum height of 22 feet for an accessory building. The garage space will be on grade. An existing curb cut will remain as-is. The design of the building will be a 2-story wood-framed structure, sheathed with neutral tone fiber cement panels. High density spray foam insulation will provide energy efficient R-value for the interior of the dwelling unit.

The design will naturally blend with the surrounding 2 story single family homes along Thayer Street NE and will be a visually aesthetic improvement to the dilapidated garage currently on site. The accessory dwelling unit will be a 399 square foot studio apartment with a Juliette balcony and modern amenities.

#### **b. Description of the Surrounding Area**

3032 24<sup>th</sup> Street NE is located on a through lot. The property is surrounded by single family detached dwellings on both 24<sup>th</sup> Street NE and Thayer Street NE. The garage currently fronts, and will continue to front on Thayer Street NE. It is, and has been the only garage on the North side of Thayer Street NE, except for an unused garage on the property at Thayer and Woodridge Streets NE. The single family dwellings on the West side of Thayer Street NE each have off street parking as required by zoning. One and a half blocks to the North of the subject property is Rhode Island Avenue NE, which is a major rush hour thoroughfare for NE DC and Maryland bus and automobile commuters. Rhode Island Avenue NE is serviced by multiple transit lines including express buses to the Metro Red line Rhode Island Avenue Station and to the business and transit hub in New Carrollton Maryland. Within the one and a half block distance to Rhode Island Avenue NE are multiple food shops, a Post Office, Pizza and sandwich shop (Manny and Olga's), variety Store (Family Dollar), Restaurants: "Provost", "His and Hers", a gourmet Coffee Shop ("Zeke's Coffee") and other assorted offices, retail and service establishments; all walkable from the subject property.

#### **IV. Description of Relief Requested**

The Applicant requests special exceptions from the following zoning requirements:

- 1. 11 DCMR Subtitle D § 210.1 Lot Occupancy - Maximum 40%:** The existing lot occupancy is 42.4%. The existing non-conforming lot occupancy is proposed to be slightly decreased to 42.2%.
- 2. 11 DCMR Subtitle D § 211.1 Pervious Surface - Minimum 50%:** The existing pervious surface is 40.1%. The existing non-conforming pervious surface is proposed to remain unchanged.

**Pursuant to 11 DCMR Subtitle X Chapter 9 the Applicant is seeking a special exception from D § 210.1 and D § 211.1. Per X § 901.2, the Board of Zoning Adjustment is authorized to grant special exceptions where, in the judgement of the Board, the special exceptions:**

- a) Will be in harmony with the general purpose and intent of the zoning regulations and zoning Maps:** *The proposed accessory building will be in harmony with the purpose and intent of the R-1B zone, as outlined by D § 101. The proposed structure matches the scale of 2-story single family homes on the West side of Thayer Street NE. The proposed footprint reduces that of the existing garage, going from a non-conforming footprint to a conforming one (under 400 SF). The proposed height only slightly increases that of the existing garage roof gable, but still well within the maximum height allowed for a by-right accessory structure. The proposed accessory building's uses, including a garage on the lower level and accessory dwelling unit on the upper level, adhere to the R-1B permitted uses. The proposed lot occupancy and pervious surface are similar to the existing non-conformities, which already demonstrate a harmony with D § 101.*
- b) Will not tend to affect adversely, the use of neighboring properties in accordance with the Zoning Regulations and zoning maps:** *As noted above, the proposed accessory building is similar in scale to the existing garage, and improves upon the side yard and footprint, while slightly increasing the height. The existing curb cut on Thayer Street NE will be maintained, and will continue to provide access to a garage that provides the required off-street parking. As such, the proposed structure does not adversely affect the use of the neighboring properties.*
- c) and; Will meet special conditions as may be specified in this title:** *The Applicant is willing to entertain any reasonable condition specified pursuant to Subtitle X Chapter §901.1, §901.2 §901.3, §901.4 and §901.5.*

**Pursuant to 11 DCMR Subtitle D § 5201.4, “An application for special exception relief under this section shall demonstrate that the proposed addition, new principal 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 neighboring properties’ light and air will not be impacted by the proposed accessory building. The adjacent properties to the North and South are separated by physical barriers, and therefore the proposed accessory building will not adversely affect the light and air available to the neighboring properties. The rear yard to the North is separated by an 8 foot high concrete wall topped by a 5 foot high wooden fence, as well as mature trees and shrubs. The rear yard to the South is bordered by mature, tightly planted evergreen trees greater than 25 feet high. The existing trees provide a natural border while still allowing light and air to reach the neighboring properties. Finally, the height of the proposed accessory building will be well within the allowed height for accessory structures and fully compliant with the R-1-B zoning codes. The proposed footprint is very similar to the existing garage, and the height is also similar; with a proposed height of 21’-8” compared to 17’-6” to the top of the existing garage’s gabled roof.*
- (b) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised:** *The proposed accessory building will not affect the privacy of use and enjoyment of neighboring properties. As noted above, the adjacent properties to the North and South are separated by physical barriers, and therefore the proposed accessory building will not adversely affect the privacy of use of the neighboring properties. Additionally, the proposed accessory building is similar in scale to the existing garage, and the single family homes to the West of Thayer Street NE. Visually, the proposed accessory building will not be prominently visible by neighbors to the North and South.*
- (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:** *The proposed accessory building will not visually intrude upon the character, scale, and pattern along Thayer Street NE. The proposed structure will continue to be parallel with Thayer Street NE, and provide visual continuity when viewed from the North and South. The proposed 2-story structure will match the scale of existing 2-story homes along Thayer Street NE. The proposed fenestration and detailing will match the existing character and pattern along the street. As a result, the proposed accessory building will seamlessly blend in with these surrounding dwellings.*
- (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.** *Attached for your review*

are pictures of the existing garage, views of the street frontages looking South down Thayer Street NE, views of street frontages looking North towards Rhode Island Avenue, and a view of the site and structure. Section and elevation drawings are included to show the complimentary scale and character.

#### **V. Applicant Meets Burden of Special Exception Relief**

The replacement of the existing 1-story garage with a proposed 2-story accessory building (garage with accessory dwelling unit above) is consistent with the purpose and intent of the R-1B zoning statutes in single family residential areas. The project proposes a modest increase of one accessory dwelling unit as allowed per zoning statutes. With respect to the alterations, the project will remove a structurally-compromised garage and replace it with an architecturally pleasing new structure that will blend with, and maintain the character and ambiance of the neighborhood.

#### **VI. Conclusion**

For the reasons stated above, this application meets the requirements for special exception relief by the Board, and the Applicant respectfully requests that the Board grant the requested relief.

Respectfully Submitted  
Donald Fulp

Owner Signature:

---

Donald Fulp

Date