

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

**Applicant’s Statement of Jannick Damgaard & Tanja Larsen  
1708 Kilbourne Place, NW (Square 2600, Lot 83)  
ANC 1D**

**I. INTRODUCTION AND NATURE OF RELIEF SOUGHT.**

This Statement is submitted on behalf of Jannick Damgaard & Tanja Larsen (collectively referred to as the “Applicant”), owners of the property located at 1708 Kilbourne Place, NW (Square 2600, Lot 83) (the “Property”), in support of its application for (i) Special Exception relief from the rear yard setback requirements of Subtitle E § 207.1, (ii) Variance relief from the lot occupancy requirements of Subtitle E § 210.1, and (iii) Variance relief from the nonconforming structure requirements of Subtitle C § 202.2.

**II. JURISDICTION OF THE BOARD.**

The Board of Zoning Adjustment (the “Board”) has jurisdiction to grant Special Exception relief requested herein pursuant to Subtitle E § 5201 and Subtitle X § 901.2, and Variance relief requested herein pursuant to Subtitle X § 1000.1 of the zoning regulations.

**III. BACKGROUND.**

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

The Subject Property is located at 1708 Kilbourne Place, NW, in the RF-1 zone district, and the Mount Pleasant Historic District. The Subject Property is an interior lot with 1,384 square feet of land area. Abutting the Subject Property to the north is a Kilbourne Place, NW. Abutting the Subject Property to the east is a single-family row building. Abutting the Subject Property to the south and west is a public alley, and beyond these alleys other residential row dwellings completing the Square.

**B. Existing Building**

The Subject Property is currently improved with a 2-unit flat row building with an existing historic front porch, built in 1910. No exterior additions have been constructed, and thus the original 1910 footprint remains as originally built. The main dwelling unit, which the Applicant occupies with their family, comprises the 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> floors of the building, with the second (rental) dwelling unit comprising the cellar level of the building, adjacent the rear grade.

**C. Proposed Project.**

The Applicant is proposing to construct a rear deck off the main (1<sup>st</sup>) floor of the home, 16 feet in depth and extended this full width of the lot, for the use and enjoyment of the Applicant & their family for meals, growing plants and vegetables, and enjoying the outdoors.

The proposed deck is similar in size & depth to others along this row. A similar deck addition to a similar property on this same row (3150 17<sup>th</sup> St NW, Square 2600 Lot 87) was previously approved in BZA Case No. 18679.

**IV. NATURE OF SPECIAL EXCEPTION RELIEF SOUGHT AND STANDARD OF REVIEW.**

The project requires zoning relief from the following zoning regulations:

- (i) The rear yard setback requirements of Subtitle E § 207.1, which require a minimum 20 foot rear yard. The existing rear yard is 18.5 feet, and the deck would reduce the rear yard to 2.5 feet.

**11 DCMR Subtitle E § 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;
- (b) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;
- (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
- (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.

**11 DCMR Subtitle X § 901.2**

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;
- (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.

**V. THE APPLICATION MEETS THE REQUIREMENTS FOR SPECIAL EXCEPTION RELIEF.**

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

The light and air available to neighboring properties shall not be unduly affected by the proposed Addition. Decks of this size are typical along this row. The existing rear yard of the Applicant's property and that of the adjacent neighbor is fully paved and used almost exclusively for parking. The proposed deck will be open underneath allowing light and air movement to both the Applicant's property and that of the adjacent neighbors, with open railings further minimizing air and light obstruction.

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

All row dwellings along this row have similar rear facades and rear yards, which are typically very exposed to each other. It is generally acknowledged that row dwellings inherently are limited in their privacy due to the nature of their proximity to each other. Decks similar to the Applicant's proposal have been successfully approved by BZA on this row, and in places where lots are larger, decks of this size would be allowed by-right. Therefore the deck should not be seen as unduly compromising the privacy of use and enjoyment of any adjacent neighbor.

**3. The proposed addition shall not substantially visually intrude upon the character, scale, and pattern of houses**

There are several decks of the size and configuration proposed by the Applicant along this row, with at least one having been previously approved by the BZA (BZA Case No. 18679 3150 17<sup>th</sup> St NW, Square 2600 Lot 87).

**4. The applicant shall use graphical representations such as plans, photographs, or elevation and section drawings**

The Applicant has provided plans, photographs, elevations, and section drawings sufficient to represent the relationship of the proposed Addition to adjacent buildings and views from public ways.

**5. Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps**

The Addition will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps. The Applicant is requesting a rear deck for the use and enjoyment of the applicant, similar to other decks built along the row. The zoning regulations generally allow for rear decks, however the unusually shallow and small lot does not allow for a deck of any size within the by-right zoning regulations, as the house itself already exceeds the 60% lot occupancy limit. Special exception relief for lot occupancy is specifically permitted in the 2016 Zoning Regulations. Accordingly, the proposed Addition will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps.

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

The proposed Addition will not limit or adversely affect the use of neighboring property.

**VI. NATURE OF VARIANCE RELIEF SOUGHT AND STANDARD OF REVIEW.**

The project requires zoning relief from the following zoning regulations:

- (i) The lot occupancy requirements of Subtitle E § 210.1, which require a maximum 60% lot occupancy in the RF-1 zone. The current structure has a lot occupancy of 69.4%. The deck addition would increase the lot occupancy to 96.4%.
- (ii) The nonconforming structure requirements of Subtitle C § 202.2, which state that an enlargement or addition to a nonconforming structure shall “*neither increase nor extend any existing, nonconforming aspect of the structure; nor create any new nonconformity of structure and addition combined.*” The existing structure is non-conforming due to exceeding required lot occupancy, and the deck would extend this non-conformity.

Under D.C. Code § 6-641.07(g)(3) and 11 DCMR Subtitle X § 1000.1, the Board is authorized to grant Variance relief, where it finds that three conditions exist:

- (1) The Property is affected by exceptional size, shape or topography or other extraordinary or exceptional situation or condition;
- (2) The owner would encounter practical difficulties or undue hardship if the zoning regulations were strictly applied; and
- (3) The variance would not cause substantial detriment to the public good and would not substantially impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map. 11 DCMR Subtitle X § 1001.1; see also *French v. Board of Zoning Adjustment*, 658 A.2d 1023, 1035 (1995); see also *Capitol Hill Restoration Society, Inc. v. Board of Zoning Adjustment*, 534 A.2d 939 (1987).

The Court of Appeals has held that the purpose of variance procedure is to “prevent usable land from remaining idle.” See *Palmer v. Board of Zoning Adjustment*, 287 A.2d 535, 541 (1972).

## **VII. THE APPLICATION MEETS THE REQUIREMENTS FOR VARIANCE RELIEF.**

### **1. The Property is Affected by an Exceptional Situation or Condition**

The property is a non-conforming lot size 1,384 SF in the RF-1 zone which requires a minimum lot size of 1,800 SF. This alone is not exceptional, as there are many lots in the RF-1 zone, and in the Mount Pleasant neighborhood that have undersized lots. However, the original (and still existing) structure was at the time of construction in 1910 built to 69.4% lot occupancy (923 SF for the main structure, and 38 SF of partial front porch within the Lot), and with a rear yard setback of 18.5 feet. The home is very similar in size to any number of homes constructed in the neighborhood and city in its day, and is not an exception structure by any means. The exceptional situation is due to the size and depth of the lot, which results in a structure that exceeded both the zoning regulations for maximum lot occupancy (60%) and minimum rear yard (20 feet) at the time of construction. A more typical lot size in the RF-1 zone, one which meets the zoning requirements, would have allowed for a typical dwelling to be built within the 60% maximum lot occupancy, and with a minimum 20 foot rear yard, and thus which would allow, at a maximum, for an addition up to 70% lot occupancy and encroaching on the rear yard by way of requesting a Special Exception. In fact, numerous projects with either smaller than 1,800 SF lots and/or less than 20 foot rear yards have applied for, and been granted, Special Exception relief for rear decks in the RF-1 zone. If it pleases the Board, please see Zoning Case No. 21371 and Case No. 21403, both rear decks on row dwellings with exceptionally small lots granted within the last 12 months in the same ANC1D district. The option for Special Exception, however, is not afforded to this property due to the nature of the size and depth of the lot, which created zoning non-conformity for lot size and rear yard at the time of original construction.

### **2. The Applicant Would Face Undue Hardship with Strict Zoning Compliance**

Rear decks are common throughout the RF-1 zone as a means of expanding the exterior living space of a residential property, especially adjacent to the main level of the home where it can easily be used for dining, grilling, and entertaining. Decks are, of course, not a requirement for residential enjoyment, and often times a rear yard can and does provide outdoor living space.

The current rear yard, at the same level as the alley and cellar level of the property, is covered entirely in a concrete pad that serves as parking for up to 2 vehicles, although in practicality because the lot is bounded to both the west and the south by a public alley, parking 2 cars would create a hazard in which the vehicle parked on the southwest corner of the lot would almost certainly be eventually damaged by cars turning the corner between the two intersecting alleys. Therefore, the lot is more practically understood to be parking for a single car which can be parked out of harm's way by other alley-bound turning vehicles. The RF-1 zone requires at least 1 parking spot per dwelling unit. As the property is a 2-unit flat, while it technically has two parking spaces, as mentioned above practically it only provides one parking space—one less than is required, thus already deficient in this aspect of the zoning regulations. If the rear yard were to be used, even in part, as outdoor living space for the Applicant (who's dwelling unit does not have direct access to the rear yard (the cellar is completely occupied by the second unit of the 2-unit flat), a new landing and stairs would have to be provided from the 1<sup>st</sup> floor (main level) of the home down to the yard.

This, along with an area for seating, grilling, and gardening, would almost certainly eliminate the parking space, relegating the Applicant to street parking. On-street parking in the Mount Pleasant neighborhood is highly utilized, and forcing the Applicant to reduce or eliminate their off-street parking in order to gain outdoor living space would constitute an undue hardship. As the Board ordered in BZA Case No. 18679 for a similar deck approved on this row, *“Though it is possible to create outdoor patio space without variance relief, forcing the Applicant to permanently seek on-street parking would amount to an unnecessary burden.”*

### **3. The Variance Relief Will Not Cause Substantial Detriment to the Public Good or the Zoning Regulations and Maps**

Decks extending off the rear main level of a row dwelling are common features found throughout the RF-1 zone and particularly in the Mount Pleasant neighborhood. The size and height of the proposed deck is consistent with others found throughout the neighborhood, including two in existence on the same row, one of them approved in BZA Case No. 18679. The deck is unenclosed and therefore would not unduly compromise the light and air available to neighboring properties. Furthermore, the deck will allow for continued compliance with the parking regulations.

### **VIII. COMMUNITY OUTREACH**

The Applicant is committed to engaging with the community regarding the proposed project. The Applicant will be meeting with Advisory Neighborhood Commission (“ANC”) 1D, the affected ANC, to present the plans and respond to questions or concerns from the Commissioners and community members. The Applicant will provide an update to the Board regarding the outcome of these discussions prior to the public hearing.

### **IX. HPRB REVIEW**

The Property is located within the Mount Pleasant Historic District. Accordingly, the Applicant will be coordinating with the Historic Preservation Office to obtain review by the Historic Preservation Review Board and will update the Board on the outcome of that process.

### **X. CONCLUSION.**

For the reasons stated above, this Application meets the requirements for approval of variance relief by the Board, and the Applicant respectfully requests that the Board grant the requested relief.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Erik Hoffland', with a horizontal line extending to the right from the end of the signature.

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Erik Hoffland, AIA  
Hoffland Architects PLLC  
Date: April 1, 2026