

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

Application of Katie Delzell for an Area Variance

1735 Fraser Court NW (Sq. 110, Lot 69)

STATEMENT OF THE APPLICANT

Katie Delzell (referred to herein as the “Applicant”) as the owner of the property located at 1735 Fraser Court NW (Sq. 110, Lot 69) (the “Property”), now seeks an area variance to build a third floor enclosed sunroom of 222.7 square feet on a portion of the existing historic structure’s third level terrace located on the Property. Given the Property is an alley lot in the RA-2 zone, the Applicant seeks an area variance to expand a non-conforming structure pursuant to 11 DCMR, Subtitle C, Section 202.2, Subtitle F, Section 5100.1 and Subtitle X, Chapter 10.

I. BACKGROUND

The Property is a single alley record lot improved with a historic three story building originally built in or around 1892 as two carriage houses. The Property is comprised of approximately 2,444 square feet and is located on an alley mid-block between 19th Street NW to the east, 20th Street NW to the west, S Street NW to the north, and R Street NW to the south. The Property is zoned to the RA-2 zone and is located within the Dupont Circle Historic District. The Property is also subject to a conservation easement granted to the L’Enfant Trust. This conservation easement (attached as Exhibit 1), among other things, prohibits any alterations to the façade of the building on the Property without support from the Trust. On July 5, 2016, the Board of Zoning Adjustment (the “Board”) approved an application by the prior owner for a variance from the non-conforming structure requirements to allow an addition of 170 square feet on the second floor of the existing building on the Property. *See* Ex. 2, BZA Order in Application No. 19255. That variance was never implemented and has expired.

II. NATURE OF RELIEF REQUESTED

The Applicant proposes to enclose a portion of the previously-enclosed third floor terrace to construct a sunroom comprising an area of 222.73 square feet on the existing building on the Property. The existing building is a non-conforming historic structure on an alley lot due to its height, lack of rear yard, proximity to the centerline of an alley, and 97% lot occupancy (less than 10% pervious surface). As such, the Applicant seeks an area variance from the nonconforming structure requirements set forth in Subtitle C, Section 202.2 as well as from the development standards for alley lots in the RA zones set forth in Subtitle F, Section 5100.1 of the D.C. Zoning Regulations.

III. AREA VARIANCE RELIEF FROM THE REQUIREMENTS OF SUBTITLE C, SECTION 202.2 AND SUBTITLE F, SECTION 5100.1.

As noted above, the Applicant seeks an area variance in this case given that the historic structure on this alley lot is non-conforming due to its height, lack of rear yard, proximity to the centerline of an alley, and 97% lot occupancy (less than 10% pervious surface). The Applicant is proposing to construct a sunroom comprising an area of 222.73 square feet on the previously-enclosed third floor terrace on the existing historic structure. The Applicant, therefore, requests an area variance from the nonconforming structure requirements set forth in Subtitle C, Section 202.2 as well as from the development standards for alley lots in the RA zones set forth in Subtitle F, Section 5100.1 pursuant to Subtitle X, Section 1001.3(a).

A. Variance Relief Standards Pursuant to Subtitle X, Chapter 10

Pursuant to Subtitle X, Section 1000.1 the Board has the authority to grant a variance as follows:

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."

In addition, the standard for granting an area variance pursuant to Section 1002.1(a) 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.**

According to the D.C. Court of Appeals, “[t]o support a variance it is fundamental ‘that the difficulties or hardships [be] due to unique circumstances peculiar to the applicant’s property and not to the general conditions in the neighborhood.’” *Gilmartin v. District of Columbia Bd. of Zoning Adjustment*, 579 A.2d 1164, 1168 (1990) (citing *Palmer v. Bd. of Zoning Adjustment*, 287 A.2d 535, 539 (D.C. 1972)). In applying this test, however, there “is no requirement that the uniqueness ‘inheres in the land at issue’” *Id.* (citations omitted). Furthermore, the requirements “do not preclude the approval of a variance where the uniqueness arises from a confluence of factors.” *Id.*; see BZA Order 19309 (citing *Monaco v. District of Columbia Bd. of Zoning Adjustment*, 407 A.2d 1091, 1097 (D.C. 1979) (for purposes of approval of variance relief, “extraordinary circumstances” need not be limited to physical aspects of the land and finding

uniqueness based on confluence of restrictive covenants, position of adjacent building and common ownership of contiguous properties); *Downtown Cluster of Congregations v. District of Columbia Bd. of Zoning Adjustment*, 675 A.2d 484, 491 (D.C. 1996) (affirming a Board of Zoning Adjustment decision based on a confluence of small footprint of building, limited vertical access, and proximity to public transportation created uniqueness).

B. Extraordinary or Exceptional Situation or Condition of the Property

In this case, a “confluence of factors,” leads to an extraordinary or exceptional situation or condition on the Property. These factors include the historic nature of this alley lot Property and the building thereon, as well as the prior use of the Property and restrictions on exterior changes due to both historic district regulations as well as a conservation easement held by the L’Enfant Historic Trust.

The existing historic structure on the Property is in a non-habitable condition and has been in such condition for at least several years. The Applicant purchased the Property in the spring of 2025 with the intention of renovating the historic structure as a primary residence for her and her family. At the time of purchase, the existing structure was essentially gutted on the interior and requires a complete renovation and rebuild to make the building a habitable dwelling. As part of this renovation, the Applicant will be maintaining the historic exterior façade of the building and proposes minimal changes to windows and doors that have been approved by HPRB and the L’Enfant Trust.

At the time of purchase, the third floor roof, skylights, and terrace were significantly damaged and in disrepair. The Applicant has taken certain measures to stabilize this area of the building pending the future full scale renovation of the structure. In reviewing previous permit documents and property records, the Applicant discovered that the third floor terrace was

previously enclosed with a trellis and fences. *See* photographs, attached as Exhibit 3. Certain elements of this trellis and fencing was still visible when the Applicant purchased the Property. In discussions with the historic preservation office and staff, however, it has been determined that the trellis and fencing was not historic in character and, as such, historic preservation staff have indicated that activation of this third floor terrace with a partial enclosed sunroom would be more in character with the historic nature of this property than restoring the fencing and trellis.

Further, the current Applicant initially planned to re-file a variance similar to the variance that the prior owner obtained from the Board in 2016 to allow an addition of 170 square feet on the second floor of the existing building on the Property. *See* Ex. 2, BZA Order in Application No. 19255. That variance, however, would alter the existing historic façade of the building and create far greater disruption and expense related to the existing historic structure than the partially enclosed sunroom on the third level terrace. Further, the sunroom would be out of sightlines from the ground level whereas the second floor addition previously proposed would be clearly visible to pedestrians and neighboring properties.

In BZA Case No. 19309, the BZA stated that it “has found on numerous occasions that being identified as a contributing building in a historic district constitutes a portion of the confluence of factors that establish an ‘exceptional condition.’” The BZA in case 19309 further found that the historic nature of the building, along with other factors including the “unique subdivision history” and “grade change,” lead to a “confluence of factors that apply uniquely and exceptionally to the Property.” Here, the historic nature of the Property on an alley lot combined with the unique history and prior use of the historic structure create a confluence of factors that establish an exception condition that would support a variance in this case.

C. Peculiar and Exceptional Practical Difficulties

In reviewing whether an Applicant has demonstrated a practical difficulty, the Applicant must demonstrate that “compliance with the area restriction would be unnecessarily burdensome” and that the practical difficulty is “unique to the particular property.” *Gilmartin*, 579 A.2d at 1170 (citations omitted). As part of its assessment of the practical difficulty test, the Board may consider the added expense and inconvenience to the applicant inherent in alternatives that would not require the requested variance relief. *Barbour v. District of Columbia Bd. of Zoning Adjustment*, 358 A.2d 326, 327 (D.C. 1976). The confluence of factors discussed above creates peculiar and exceptional difficulties for the Applicant because restoring the prior use of the third floor terrace as an enclosed space with fencing and a trellis would not be in character with the historic nature of the building or the historic district. Further, the prior variance granted for this building would cause greater cost and disruption to the historic structure and would make changes to the historic façade that would be visible to pedestrians and neighbors. As such, the Applicant seeks to activate this terrace now with a partially-enclosed sunroom, which historic preservation staff have indicated would be preferable to restoring the prior fencing and trellis on the third floor terrace.

D. No Substantial Detriment to the Public Good or Substantial Impairment of the Intent, Purpose, and Integrity of the Zone Plan

The proposed sunroom will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps. The purpose of the RA-2 zone is to “[p]ermit flexibility of design by permitting all types of urban residential development if they conform to the height, density, and area requirements established for these districts.” *See* 11 DCMR Subtitle F, Section 101.3(a). The RA-2 zone provides for areas developed with predominantly moderate-density residential. *Id.*, Section 101.5. The purposes of the Dupont Circle RA zones include an intent to “enhance the residential character of the area by maintaining existing residential uses and

controlling the scale and density of residential development” and “[p]rotect the integrity of ‘contributing buildings’, as that term is defined by the Historic Landmark and Historic District Protection Act of 1978, effective March 3, 1979.” *Id.*, Section 500.2.

The proposed project would include a full renovation and interior rebuild of the historic structure on this Property to establish a new residence. The proposed sunroom, in lieu of restoring the fencing and trellis on the third level roof, will conform to and respect the historic character of the building and the historic district while also providing an attractive activated space for the residents of this building. As such, this project will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps.

IV. COMMUNITY ENGAGEMENT

The Applicant will engage with neighbors and ANC 2B as this project moves forward.

V. WITNESSES

The following witnesses will appear on behalf of the Applicant at the Board hearing on this Application:

1. Mark and Lucia Freeman, Aggregate Architecture. Mr. and Mrs. Freeman are the architects for this project and will speak to the design elements of the proposed project.

VI. CONCLUSION

For all of the reasons discussed above, the Applicant respectfully requests that the Board approve this application for an area variance.

A handwritten signature in black ink, appearing to read "Zach Williams", is written over a horizontal line.

Zachary G. Williams, Esq.
Venable LLP
Authorized Agent for the Applicant