

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 lot is currently almost exclusively occupied by the on-site parking space (to remain). As such, to allow for necessary outdoor living space for their growing family, 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. 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. Notably, given the shallowness of the lot, the existing rear yard is almost entirely occupied by the existing parking space.

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

requires a minimum lot occupancy of 60% for single-household dwellings in the RF-1 Zone. While 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 exempt from the calculation of lot occupancy (Subtitle B § 312.4), the proposed deck necessarily must exceed this 4-foot height allowance in order to provide adequate clearance for the existing on-site parking space to remain below.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. The Applicants recently welcomed their first child. Now, raising a young child in the City, the need for an outdoor living space has become even more important. As noted herein, given the shallowness of the lot and presence of an existing parking space on the Property (which will remain), there is very little 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. The landing and the parking space combined occupy approximately 22 feet of the rear yard, leaving only approximately 3 feet remaining. As such, given these existing conditions and site constraints, this elevated deck is essentially the only way to create usable outdoor living space, where the Applicants can spend time as a family.

The proposed deck will not be visible from A Street NE and will be in keeping with the character of the existing neighborhood. In fact, there are several existing elevated decks along the alley, as well as numerous accessory buildings.

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 exterior living space that is better suited and able to accommodate the needs of

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.

the Applicants' growing family, allowing them to remain (and grow) in their current neighborhood. 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 Applicant's 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. The Special Exception Request Meets the General Special Exception Requirements of Subtitle X § 901.2

As discussed herein, 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. The Applicants Meets the Specific Requirements of Zoning Regulation Subtitle E § 5201.1 for Zoning Relief from Development Standards of the RF-1 Zone.

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, 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 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 herein, several other homes on this alley already have a similar condition to what is being proposed.

- 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, 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. 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.

- 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. The Property is affected by exceptional narrowness, shallowness, shape, topography, or other extraordinary situation or condition.

The phrase “other extraordinary or exceptional situation or condition” applies to both the characteristics of land and the existence of improvements on the land. 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 the existing topography (*i.e.*, the rise in elevation that requires a stair and landing to provide access to the main floor from the rear yard), as well as the exceptional narrowness/shallowness of the lot, which is almost 500 square feet smaller than the minimum lot size in the RF-1 Zone and is one foot narrower than the required minimum lot width (*i.e.*, 17 foot wide, compared to the 18 foot minimum lot width required). These exceptional characteristics of the land are compounded by the existing parking space that must remain and occupies almost the entire rear yard. Collectively, these conditions effectively preclude the Applicant’s from being able to create usable outdoor living space on their property without relief.

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.

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

Strict application of the Zoning Regulations will result in exceptional and undue hardship to the Applicants by precluding them from being able to provide necessary outdoor living space to accommodate their growing family in the existing row dwelling, consistent with the intent of the zone. As discussed herein, there is effectively no room for the Applicant's to provide necessary outdoor living space without relief – the Applicant's would either need relief to remove the existing parking space or relief to allow for the elevated deck. However, given that the Capitol Hill Area Element specifically recognizes the challenges with parking in Capitol Hill driven, in part, by the lack of off-street parking on individual residential lots, removal of the parking space would be inconsistent with the Area Element. As such, 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.

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 herein, is keeping with the existing character of the surrounding community. The proposed design is similar in character to many of the neighboring properties, several of which have elevated decks in their rear yards. As discussed above, the proposal will promote many goals and objectives of the RF-1 Zone and the City, as expressed through the Plan. As such, the variance application will not substantially impair the intent, purpose and integrity of the zoning regulations and map.

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