

# Burden of Proof

## Special Exception and Area Variance Application

508 7<sup>th</sup> Street SE

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

**Date:**         January 3, 2018

**Subject:**     **BZA Application, Flowers Addition**  
508 7<sup>th</sup> St SE (Square 903, Lot 29)

Benjamin Flowers, owner and resident of 508 7<sup>th</sup> Street SE, hereby applies for zoning relief to build a two-story addition to the rear of their existing semidetached house. The proposed structure requires an area variance pursuant to Subtitle X, Chapter 10, Section 1001.3 for an addition to a non-conforming structure (Subtitle C, Section 202.2); and special exceptions pursuant to Subtitle X, Chapter 9, for lot occupancy, rear yard, and side yard requirements (Subtitle G, Sections 404.1, 405.2, and 406.2).

The aspects of the proposed project that falls outside the current zoning regulation is as follows:

*The existing house has a nonconforming lot occupancy of 754.7 SF (70.7%), a nonconforming rear yard of 8.6', and a nonconforming side yard that varies from 1.5' to 7.9' to 4.4'. With the proposed addition the lot occupancy will decrease to 747.5 (70.0%), the rear yard will increase to 9.2', and the 4.4' side yard will be extended in the MU-4 zoning district (ZR-16 Subtitle C 202.2).*

*The existing house has a lot occupancy of 754.7 SF (70.7%), which will decrease to 747.5 (70.0%) with the proposed rear addition. The proposed lot occupancy will exceed the maximum allowed by 106.7 SF (10.0%) for a semi-detached single family residence in the MU-4 zoning district (ZR-16 Subtitle G 404.1)*

*The existing house has a rear yard of 8.6', which will increase to 9.2' with the proposed rear addition. The proposed rear yard deviates from the required 15.0' by 5.8' for a semi-detached single family residence in the MU-4 zoning district (ZR-16 Subtitle G 405.2)*

*The existing house has a side yard that varies from 1.5' to 7.9' to 4.4'. The proposed rear addition will extend the 4.4' side yard. The proposed side yard deviates from the required 8' by 3.6' for a semi-detached single family residence in the MU-4 zoning district (ZR-16 Subtitle G 406.2)*

### I. Summary:

The area variance qualifies under ZR-16 Subtitle X, Chapter 10 for the reasons listed in the following section of this burden of proof.

The special exception qualifies under ZR-16 Subtitle X, Chapter 9, because the addition will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps, will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps, and will meet such special conditions as may be specified in this title.

## II. Qualification of Variance:

### 1002 Variance Review Standards

As per Subtitle X § 1002.1 (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;*

The existing property is a single family two-bedroom residence with a single full bathroom in the Capitol Hill historic district. The residence also has a non-historic one-story rear addition with construction standards that fall short of current building codes requirements. The owners would like to expand the 2<sup>nd</sup> floor of the house to three bedrooms with two full bathrooms to accommodate their family. However, due to the existing layout of the first and second floors, as well as the existing ceiling height of the 2<sup>nd</sup> bedroom, adding a third bedroom and second full bathroom without expanding the existing structure causes a number of practical difficulties:

1. There is an existing open space on the second floor behind the existing bathroom. This space is too small to fit a bedroom that would meet the building code requirements without reconfiguring the existing bathroom and front bedroom. The owner would incur significantly more expense reconfiguring the existing front bedroom and bathroom on the second floor.
2. The existing rear bedroom is also too small to divide into two. The resulting bedrooms would not meet the requirements of a habitable space as defined by the building code.
3. The existing ceiling height in the rear bedroom at 6'-10" is 2" lower than the code required 7'-0". A renovation without an addition would not address the ceiling height issues.
4. The existing one-story addition on the first floor currently being used for mechanical and laundry is inefficient in layout and has structural issues related to its foundation, water and air tightness, and thermal insulation. While Integrating this space into the habitable portion of the house is part of the proposed work, it is not ideal for locating a bedroom or full bathroom.
5. The original structure appears to have been built with 510 7<sup>th</sup> Street SE in 1874 per the Faetz & Pratt Real Estate Directory. The properties have the same lot size and the houses were constructed as mirror images of each other. According to Baist's Real Estate Atlas the two structures had the same footprint as of the 1919-1921 survey. Since then the two structures have been modified, but the structure at 510 7<sup>th</sup> Street SE has a 2<sup>nd</sup> floor that has been expanded approximately 3' further back and a roof line at the rear of the house that is slightly higher than at 508 7<sup>th</sup> Street SE. Both the expanded 2<sup>nd</sup> floor footprint and extra height would allow more flexibility in configuring the interior to gain additional building code compliant residential sleeping space.
6. The other similar residential structure to the north at 506 7<sup>th</sup> Street SE appears to have been built at the same time as the structures at 508 & 510 7<sup>th</sup> Street SE but with a slightly different lot size and smaller original footprint. Even with the smaller footprint the residence at 506 7<sup>th</sup> Street SE is allowed greater flexibility in its interior configuration because of an approximately 150 SF shed at the rear of the property, and a large attic space above the front half of the house.

## 1003 Application Requirements

*An application for 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.

## III. Qualification of Special Exception

### Subtitle G Chapter 12 Relief from Development Standard

By satisfying the requirements of G-1200, the application also meets the special exception review standards of X-901.

G-1200.4 Relief may be granted as a special exception by the Board of Zoning Adjustment to the development standards and regulations of the subtitle where, in the judgement of the Board, the special exception:

- (a) *Will be in harmony with the general purpose and intent of the MU zone, the Zoning Regulations, and Zoning Maps;*

The existing square is extremely dense and is made up of mixed uses including retail, business, and residential housing. The proposed two-story rear addition will not extend past the existing one-story structure that is to be removed. The property does not have alley access, and the properties across the adjacent parking lot and alley consist of commercial properties all facing the opposite direction. Additionally, the proposed addition will be constructed with high quality materials and will be appropriate in scale for the existing adjacent houses.

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

### **506 7<sup>th</sup> Street SE**

The proposed addition at 508 7<sup>th</sup> Street SE will be along the shared property line with 506 7<sup>th</sup> Street SE. The north face-on-line wall of the addition adjacent 506 7<sup>th</sup> Street SE will have no windows, thus prohibiting any views into the house at 506 7<sup>th</sup> Street SE. There will be a new window and door on the rear wall of the addition which may allow some views into the rear yard at 506 7<sup>th</sup> Street SE; however, the existing fence along the shared property line will remain and obstruct some of those views. Additionally, the new window and door are replacing existing windows on the rear of the existing structure.

The proposed two-story addition will replace an existing one-story structure, and will be held short of the existing structure to be demolished by 0.6'. There is a 4.5' side yard on the property of 506 7<sup>th</sup> Street SE separating the residence from the proposed addition. The proposed addition will only extend back an additional 8.5' past the existing two-story structure.

Overall, the proposed addition at 508 7<sup>th</sup> Street SE will not unduly compromise the use of the neighboring property at 506 7<sup>th</sup> Street SE.

### **510 7<sup>th</sup> Street SE**

The proposed addition at 508 7<sup>th</sup> Street SE will be separated from the shared property line with 510 7<sup>th</sup> Street SE by the 4.4' side yard. There are windows on the proposed addition facing south towards 510 7<sup>th</sup> Street SE, but the existing wall on 510 7<sup>th</sup> Street SE facing north is on the property line and has no windows, prohibiting any views into the house. There will be a new window and door on the rear wall of the addition which may allow some views into the rear yard at 506 7<sup>th</sup> Street SE; however, the existing fence along the shared property line will remain and obstruct some of those views. Additionally, the new window and door are replacing existing windows on the rear of the existing structure.

The proposed two-story addition will replace an existing one-story structure, and will be held short of the existing structure to be demolished by 0.6'. There is a 4.4' side yard on the property of 508 7<sup>th</sup> Street SE separating the proposed addition from the property of 510 7<sup>th</sup> Street SE. The proposed addition will only extend back an additional 8.5' past the existing two-story structure.

Overall, the proposed addition at 508 7<sup>th</sup> Street SE will not unduly compromise the use of the neighboring property at 510 7<sup>th</sup> Street SE.

### **711 E Street SE**

The apartment building at 711 E Street SE will be separated from the proposed rear addition by the parking lot at 711 E Street SE and a privacy fence. The rear wall of the apartment building will be approximately 20' Northeast from the rear of the proposed addition. The north wall of the proposed addition facing the apartment building is on the property line and has no windows. The window and door at the rear of the addition are replacing existing windows on the rear of the existing structure.

The proposed rear addition at 508 7<sup>th</sup> Street SE will be much smaller in scale as compared to the apartment building. The apartment building will be separated from the proposed rear addition by the rear yard/parking lot at 711 E Street SE. The rear wall addition will be approximately 20' from the apartment building separated by the parking lot and fence.

Overall, the proposed addition at 508 7<sup>th</sup> Street SE will not unduly compromise the use of the neighboring property at 711 E Street SE.

*(c) Is subject in each case to any applicable conditions specified in this chapter.*

## **Subtitle G 1201 Special Exception Criteria Rear Yard Relief**

G-1201.1 The Board of Zoning Adjustment may grant relief to the rear yard requirements of this subtitle as a special exception pursuant to Subtitle X, provided;

*(a) No apartment window shall be located within forty feet (40 ft.) directly in front of another building;*

Not applicable to an addition to a semi-detached single family residence.

*(b) No office window shall be located within thirty feet (30 ft.) directly in front of another office window, nor eighteen feet (18 ft.) in front of a blank wall;*

Not applicable to an addition to a semi-detached single family residence.

*(c) In buildings that are not parallel to the adjacent building, the angle of sight lines and the distance of penetration of sight lines into habitable rooms shall be considered in determining distances between windows and appropriate yards;*

Views are considered and discussed as part of the requirements for G-1200.4.

*(d) Provision shall be included for service functions, including parking and loading access and adequate loading areas;*

Not applicable to an addition to a semi-detached single family residence.

*(e) Upon receiving an application to waive rear yard requirements in the subject zone, the Board of Zoning Adjustment shall submit the application for the Office of Planning for coordination, review, report, and impact assessment, along with reviews in writing from all relevant District of Columbia departments and agencies, including the Department of Transportation, The District of Columbia Housing Authority and, if a historic district of historic landmark is involved, the Historic Preservation Office.*

## **902 Application Requirements**

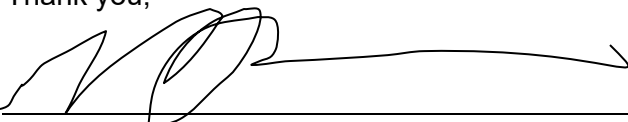
*An application for a special exception shall meet the requirements of Subtitle Y § 300.*

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

- d) Photos of the existing house and surroundings;
- e) Plan and elevation drawings of proposed addition, including a site plan showing the relationship of the proposed addition to adjacent buildings.
- f) 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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202-546-0896