

**BEFORE THE D.C. BOARD OF ZONING ADJUSTMENT
441 4TH STREET, N.W., SUITE 200S
WASHINGTON, D.C. 20001**

APPLICATION OF:

NICHOLAS AND VALERIE ALTEN

BZA CASE NO. 20661

Special exception relief, pursuant to Subtitles D § 5201 and X § 901.2, from the accessory building area requirements of Subtitle D § 5003.1 to construct a rear, detached, two-story garage with accessory dwelling unit, to an existing detached two-story with basement principal dwelling in the R-1-B District at 4511 Chesapeake Street, N.W. (Square 1570, Lot 30)

HEARING: APRIL 6, 2022

APPLICANT'S PREHEARING STATEMENT

I.

INTRODUCTION

Nicholas and Valerie Alten ("**Applicants**") submit this prehearing statement to the Board of Zoning Adjustment ("**Board**" or "**BZA**"), through undersigned counsel, in support of their application for special exception relief from the accessory building area requirements of Subtitle D § 5003.1 to construct detached two-story garage with an accessory dwelling unit at the rear of their principal single-family detached residence in the R-1-B District at 4511 Chesapeake Street, N.W. (Square 1570, Lot 30). The Applicants proposed to demolish their existing one-story garage at the rear of their property and replace it with a two-story accessory building with 660 square feet of building area where only 450 square feet are permitted under Subtitle D § 5003.1. The new accessory structure will provide parking and storage on the ground floor and an accessory dwelling unit on the upper floor.

II.

JURISDICTION OF THE BOARD

The Board has jurisdiction to grant special exception relief pursuant to 11-X DCMR § 901.2 and 11-D DCMR § 5201.

III. BACKGROUND

A. Description of Property and Surrounding Area

The Applicant's property is located in the American University Park neighborhood at 4511 Chesapeake Street, N.W. (Square 1570, Lot 30) ("**Property**"). The square is bounded by Chesapeake Street on the south, 45th Street on the east, 46th Street on the west, and Davenport Street on the north, all in northwest Washington. The Property is located in the R-1-B District, as shown on an excerpt of the zoning map below.

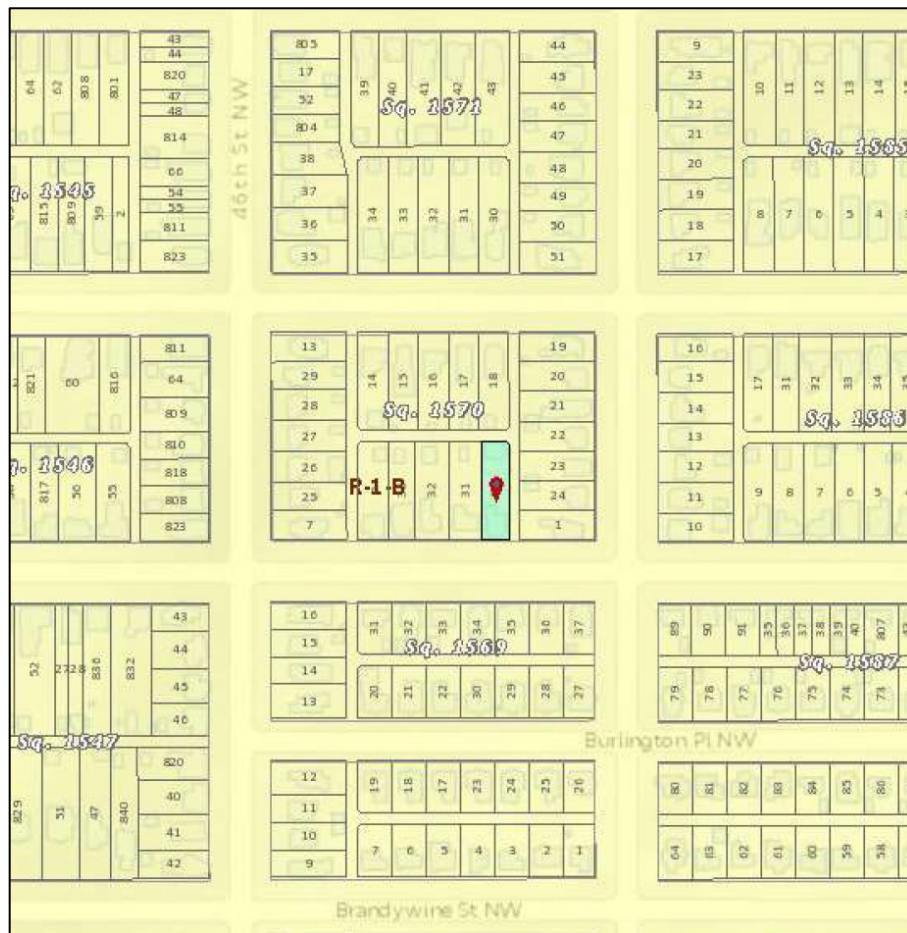


Figure 1: Excerpt of D.C. Zoning Map – 4511 Chesapeake St., N.W.

The Property is bounded for its entire length by a north-south alley to the east that connects Chesapeake Street to Davenport Street, N.W. The rear of the Property abuts the east-west alley that runs through the center of the square. A second north-south alley is located in the western part of the square.

The properties within the square are improved with single-family detached dwellings, many of which also include detached garages at the rear and accessed from the alleys. At least two of the garages are two stories in height.



Fig. 2: view of north-south alley looking north From Chesapeake Street; Applicant's property to left in image bordered by white picket fence.



Fig. 3: view of existing garage at rear of 4511 Chesapeake St., N.W., looking south-southwest

B. Proposed Project.

The Applicants propose to demolish their existing one-story garage, which is poor to fair condition, and replace it with an attractive, two-story accessory building to accommodate two vehicles and storage on the ground floor, and an accessory dwelling unit on the second floor, as shown in the architectural drawings included as Exhibit 6 to the BZA record and excerpts below. The new accessory structure will be approximately 19'-11" in height, which is less than the permitted height of 22 feet. Subtitle D § 5002.1. The building will be 22 feet wide and 30 feet deep, with an overall building area of 660 square feet, which exceeds the maximum permitted building area of 450 square feet. The building will be set back 10 feet from the east property line along the east side alley, eight feet from the west property line, and 4.5 feet from the rear property line. The accessory dwelling unit will be accessible from an exterior door located in the east

elevation, with a staircase leading to the second floor.

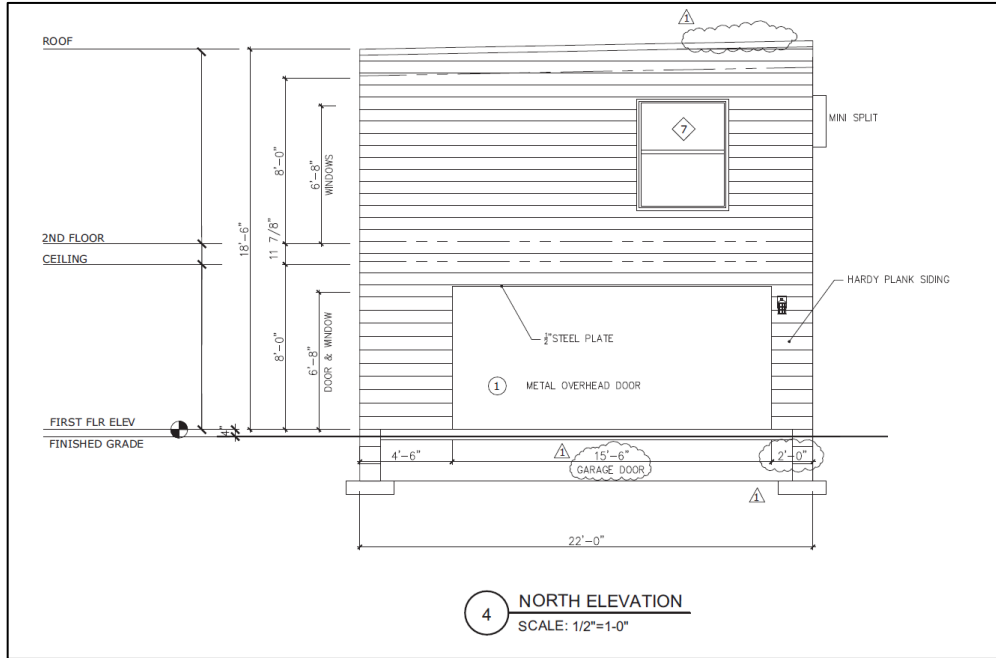


Fig. 4: North elevation of proposed garage accessible from east-west alley.

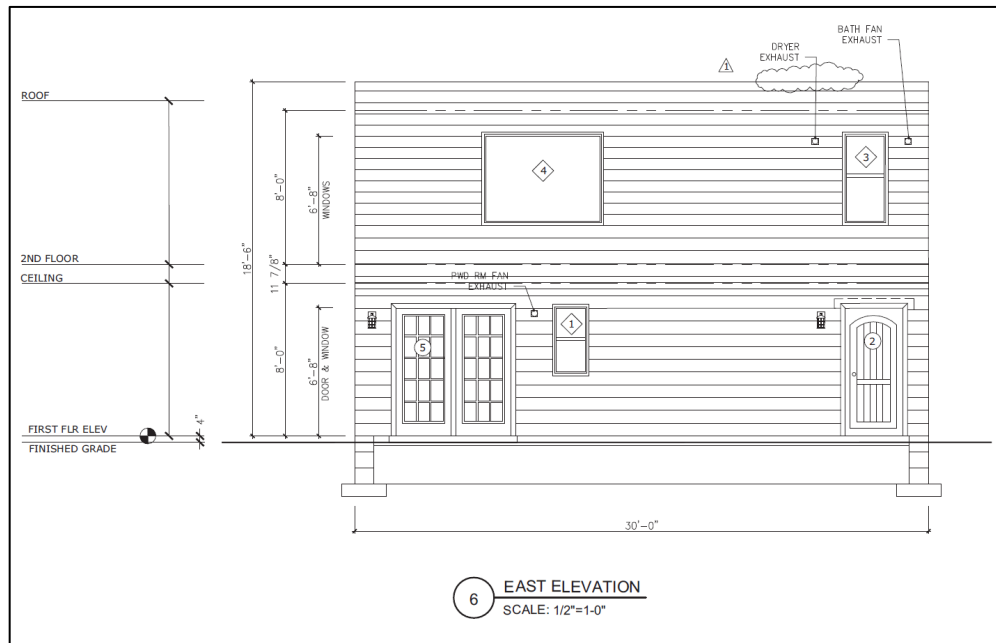


Fig. 5: East elevation of proposed garage along the north-south alley abutting the Property.

The Applicants are also proposing additional plantings and landscaping to screen the accessory structure from neighboring properties, a new fence, and environmentally sensitive and passive energy features such as pervious pavers, a rain barrel, and either a green roof or solar

panels on the roof of the new accessory building.

**IV.
THE APPLICANTS MEET THE BURDEN OF PROOF
FOR SPECIAL EXCEPTION RELIEF**

A. Standard of Review

Pursuant to Subtitle X § 901.2, the Board is authorized to grant special exception relief where, in the judgment of the Board, the special exception: (i) will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map; (ii) will not tend to affect adversely the use of neighboring property; and (iii) will meet the specific requirements for the particular relief requested. In reviewing applications for special exception relief, the Board's discretion is limited to determining whether the proposed exception satisfies the applicable requirements. If the standards are met, the Board ordinarily must grant the application. If the specific requirements of the regulation are met, the Board is generally precluded from denying the application. *See National Cathedral Neighborhood Ass'n v. District of Columbia Bd. of Zoning Adjustment*, 753 A.2d 984, 986 n.1 (D.C. 2000); *French v. District of Columbia Bd. of Zoning Adjustment*, 658 A.2d 1023, 1032-33 (D.C. 1995); *see also Stewart v. District of Columbia Bd. of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973). As described below, Applicants meet the both the general and specific standards for special exception relief to allow an accessory building that exceeds the allowable building area.

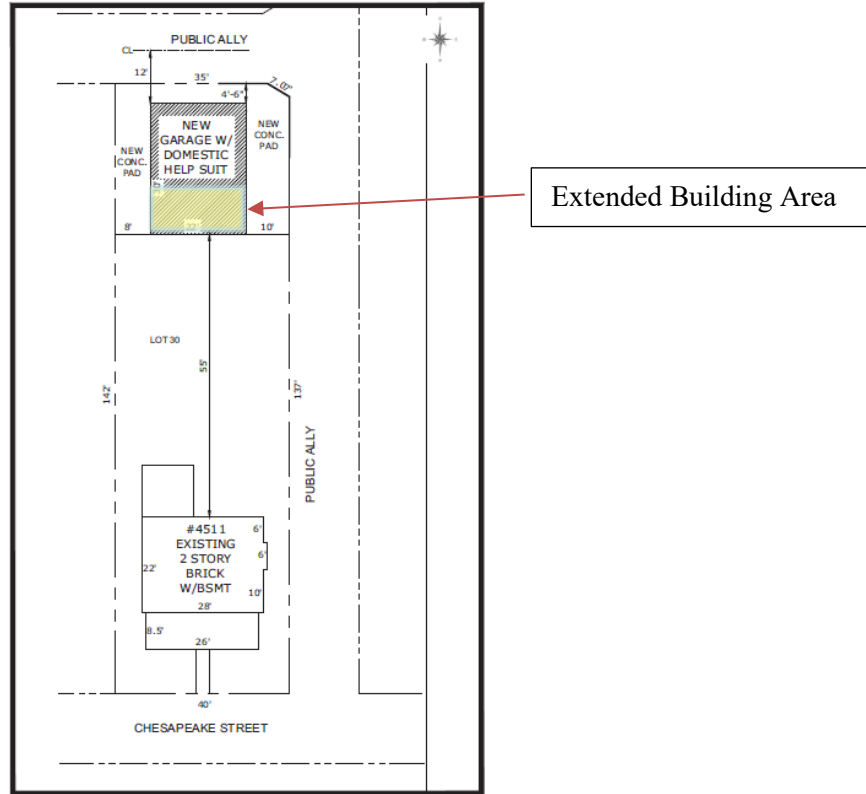
B. Compliance with the Specific Standards of Relief for Accessory Structures

Pursuant to Subtitle D § 5201.2(b), the Board may grant special exception relief from the maximum building area of 450 square feet for new accessory structures, provided an applicant meets the specific standards of Subtitle D § 5021.4. As set forth below, the Applicants meet each one of these criteria.

1. The light and air available to neighboring properties shall not be unduly affected (D § 5201.4(a)).

The additional 210 square feet of building area that exceeds what is permitted as a matter-of-right ("**Extended Building Area**") will extend solely into the Applicants yard. It will not affect in any way the property immediately to the north across the alley. In fact, the effect of the proposed structure would be the same as an accessory building meeting the 450 square foot building area requirement. Similarly, the proposed accessory structure will not unduly affect the light and air available to abutting owner to the west, or other properties along the interior alley system. As shown in the shadow studies supplied to the BZA record at Exhibits 26 and 27, the shadow cast by the Extended Building Area will only affect a small portion of the rear yard of the abutting property to the west in the early morning hours during the summer solstice. By 10:48 a.m., the shadow falls entirely on the Applicants' Property. During the winter, the shadows falling on the abutting property to the west are cast primarily by the Applicants' principal residence and not the Extended Building Area. Significantly, this abutting property owner to the west does not oppose this application and instead has determined not to take a position on this application one way or another.

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With respect to the properties to the east of the north-south alley, the winter shadows cast from the Extended Building Area are virtually indistinguishable from the shadows from the principal residences on Chesapeake Street and the trees in the neighborhood. In the summer, the Extended Building Area only start to cast a small shadow on the garages of the properties across the alley just before 4:00 p.m. Thereafter, the Extended Building Area shadows are subsumed within shadows cast by trees and the garages to the east across the north-south alley. Thus, the Extended Building Area will not unduly affect the light and air available to neighboring properties.

2. *The privacy of use and enjoyment of neighboring properties will not be unduly affected (D § 5201.4(b)).*

The Extended Building Area will not unduly compromise the privacy or enjoyment of the neighbors. The Extended Building Area only protrudes in the Applicants own yard. New shrubs and vegetation will be planted along the accessory structure to screen adjacent properties and a new fence will be installed to enhance the visual appearance of the site. Thus, the privacy of use and enjoyment of neighboring properties will not be unduly affected and, in fact, will be enhanced by these screening features and other aesthetic

improvements.

3. The addition, together with the original building, as viewed from the street, alley or other public way, shall not substantially visually intrude upon the character, scale and pattern of houses along the subject street frontage (D § 5201.4(c)).

The new accessory building will only be modestly visible from Chesapeake Street and will be primarily obscured from the street frontage by trees and other vegetation. Consequently, it will not substantially intrude visually upon the character, scale and pattern of houses along Chesapeake Street. Moreover, the proposed accessory building will be faced in hardie-plank, a material common to single-family houses and garages through the American University Park neighborhood, and specifically to several additions in this block, including the Applicants' house. At two-stories in height, the accessory building is consistent with the character, scale and pattern of houses along Chesapeake Street as well as other accessory structures in the square and elsewhere in the community.

4. In demonstrating compliance with this subsection, the applicant shall use graphical representations such as plans, photographs, or elevations and section drawings sufficient to represent the relationship of the proposed addition, new building, or accessory structure to adjacent buildings and views from the public ways.

The Applicants have submitted graphical materials with its application as part of Exhibits 2, 6, and 26-37 that sufficiently represent the relationship of the proposed accessory building and views from public ways.

5. The Board of Zoning Adjustment may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent and nearby properties (D § 5201.5).

The accessory structure has been designed to reflect the character and design of other two-story accessory buildings along the alleys in this square and throughout the neighborhood and to be compatible with the Applicants' house. Extensive landscaping and plantings will soften and help screen the structure from surrounding properties, and passive-energy features will enhance the environmental quality of the new building. As a result, no additional special treatments are necessary to protect adjacent and nearby properties.

C. Compliance with the General Special Exception Standards

1. *The Extended Building Area will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map.*

The proposed Extended Building Area of the accessory building will be in harmony with the general purpose and intent of the Zoning Regulations and Maps “to create conditions favorable to health, safety, transportation, prosperity, protection of property, civic activity, and recreational, educational, and cultural opportunities,” among other purposes. D.C. Official Code §6-641.02 (2018 Repl.). The accessory building will create conditions favorable to the community through a complimentary design, extensive plantings and landscape screening, a new fence, and passive energy features. The provision of an accessory dwelling unit will help contribute to the District's goal of increasing the housing stock and enabling homeowners to age in place by deriving supplemental income from rental units.

2. *The Extended Building Area will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map.*

As described more fully above in the specific standards for the relief requested, the Extended Building area will not tend to adversely affect the use of neighboring property with respect to light, air, privacy and enjoyment of use of property.

**V.
COMMUNITY OUTREACH**

At a regularly scheduled meeting, Advisory Neighborhood Commission ("ANC") 3E voted 2-1-0 to support the application. A copy of the ANC resolution is included in the record at Exhibit 41. The Applicants are aware of several neighbors in opposition to the application and will address those concerns at the hearing. Significantly, however there are also numerous neighbors in support the application, as noted in Exhibit 10 to the BZA record. Additionally, the Applicants reached out to all opposing neighbors prior to the hearing and only one neighbor willing to meet. The rest declined.

**VI.
WITNESSES**

The Applicants will appear in support of their application before the Board.

**VII.
CONCLUSION**

Based on the foregoing, the Applicants meet the requirements for special exception relief to extend the building area of the proposed accessory building and respectfully request the Board to approve the application.

Respectfully submitted,

The Brown Law Firm PLLC

By: 
Mary Carolyn Brown