

**Board of Zoning Adjustment  
Special Exemption Request – Burden of Proof Statement**

**Date: 9/30/21**

Owners: Dickinson Miller & Katie Ziegler  
Address: 1410 Hopkins Street, NW  
Square: 0096  
Lot: 0094  
Zone: RA-8

**Project Description:**

The applicant would like to add 3' – 10" to the existing garage and install an exterior floor lift from grade to the 1<sup>st</sup> floor.

**Special Exception Relief Sought:**

Because the proposed plans include increasing nonconforming conditions, the applicant is requesting Special Exceptions under E5201.1 (C) for:

1. Rear Yard (F605): Currently the rear yard is 10'3" from the property line to the rear brick wall of the house. The rear yard requirement is 15'. The proposed plan decreases the rear yard to 6' – 5" by moving the garage door into the rear yard setback.

**Special Exception Requirements are met:**

The drawings and pictures show how the Special Exception Review Standards are met and the abutting/adjacent dwelling will not be adversely affected by the proposed plans. Specifically:

1. The project has absolutely no impact on the adjacent neighbors use of their properties. In particular:
  - a. The light and air available to neighboring properties will not be affected. There are two concrete walls on the property line at alley grade to the north and south. Therefore, moving the garage door out below the 1<sup>st</sup> floor would have no impact on the neighbor's light and air at either grade or above.
  - b. Privacy of use and enjoyment of neighboring properties will not be impacted for the same reasons explained above regarding light and air. The two existing concrete walls (that support the subject and adjacent decks) already provide a visual barrier. Even if these walls were removed, the rear of this row of houses does not have usable rear yard space for enjoyment. All rear yards facing this alley, including on the other side of the alley, use their rear yards for parking and storage only.
2. The project will maintain the historic and scale intentions of the RA-9 Zone. The project will not have any impact on the character, scale, and pattern of houses along the street frontage as it is only visible from the alley. In addition, the alley's streetscape will also be negligibly impacted, and the impact should be an improvement. The current deck is in disrepair and the alley level under the deck is not designed. By moving the garage door out and installing the lift, the project will enhance the appearance of the rear of the house but still maintain the character and scale of the adjacent properties.

**Area Variance Relief Sought:**

Because the proposed plans include increasing nonconforming conditions, the applicant is requesting an area variance for:

1. Lot Occupancy (F - 604): This property is required to have maximum 60% lot occupancy and has 82% lot occupancy.

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2. FAR (F – 602): This property is required to have maximum 1.8 FAR and has an existing 2.91 FAR and a proposed 2.94 FAR.
3. Parking Access (C711.7): The existing and proposed garage in the building is to be set back 12' from the center line of the alley for a minimum height of 10'. The garage is currently setback 15'-3" for a height of 7'. The proposed garage would be set back 11'-5" for a minimum height of 7'.

**Area Variance Standards Are Met (Subtitle X 1002):**

The attributes of this property would create peculiar and exceptional practical difficulties for the owner. Though the exact date of construction is unknown, the current house was most likely built in the 19<sup>th</sup> century and therefore existed prior to the 2016 (or 1959) zoning regulations in its current siting on the lot. As originally built (perhaps without the deck), the house occupied 69.75 % of the lot. With the existing deck, it covers 82% of the lot. Similarly, the house has always had a 2.79 FAR (with no rear deck) and 2.91 with the deck. The deck could also have been original to the house. The brick work in the rear wall indicated that there was always an exterior door at the 1<sup>st</sup> floor level, roughly 8' above the alley grade, indicating that it opened out onto at least a platform.

These conditions make the applicant's lot extremely difficult to work with. The extremely small size of the actual lot (only 1,424 SF) compared to the actual size of the building, make an exceptional situation that creates an undue burden and financial hardship on the owner. In other words, the FAR that we are seeking relief from is the exact condition that makes the lot an extraordinary condition and applicable to a zoning relief request.

The RA-8 zone is provided for areas with predominantly moderate density apartments. This project proposes keeping the main house intact and converting only the basement into an apartment, creating a two-unit building. This maintains the historic character of the neighborhood and the residential scale of the houses within the zone.

The owners of the property would like to age in place and are creating the basement apartment for their eventual use. However, as that requirement is in the distant future, they need to still access the upper unit from the rear of the house in a safe manner. Currently they can park in the garage and traverse to the 1<sup>st</sup> floor via the internal stair. Once the apartment is built, they will not be able to reach the 1<sup>st</sup> floor internally. The through floor lift is proposed as a space efficient way to reach the 1<sup>st</sup> floor from the garage.

In order to provide egress for the basement unit, the open court needs to stay connected to the alley. The garage needs to maintain its dimensions to meet the parking requirements. Therefore, the lift is designed on the south west property corner. This placement creates a safety problem for the owners. In order to access the lift, they would have to enter the rear yard that is accessible to the public alley. One option considered was to put a door in the existing brick wall of the garage. However, as an architectural historic building, this option does not appeal. Therefore, the solution rests with moving the garage door out in order to insert a door in the new (not historic) wall to access the lift in the rear yard.

**Area Variance Requirements are met (Subtitle X 1000.1):**

1. There is no substantial detriment to the public good.
2. There is no substantial impairment to the intent, purpose, and integrity of the Dupont Circle Residential Apartment Zone (RA-8) regulations.

The Dupont Circle area is unique, and the proposed plans do nothing to harm the public good or change the character, scale of the property that would impact the character or scale of the neighborhood. RA-8 is designed to maintain a residential character with moderate density, preserving the humans scale streetscapes and historic character. The project is only visible from the alley. In addition, the alley's

streetscape will also be negligibly impacted, and the impact should be an improvement. The current deck is in disrepair and the alley level under the deck is not designed. By moving the garage door out and installing the lift, the project will enhance the appearance of the rear of the house but still maintain the character and scale of the adjacent properties. The lift will go through the deck floor on the inside of the guard rail and therefore will not be visible and will have no impact on light or air for adjacent properties.

RA-8 also aims to protect rear yards in order to preserve the light, air, and privacy for residents. As mentioned above in the Special Exception substantiation, there are two concrete walls on the property line at alley grade to the north and south. Therefore, moving the garage door out below the 1<sup>st</sup> floor would have no impact on the neighbor's light and air at either grade or above. Privacy of use and enjoyment of neighboring properties will not be impacted for the same reasons explained above regarding light and air. The two existing concrete walls (that support the subject and adjacent decks) already provide a visual barrier. Even if these walls were removed, the rear of this row of houses does not have usable rear yard space for enjoyment. All rear yards facing this alley, including on the other side of the alley, use their rear yards for parking and storage only.

The project is designed to stay well within the moderate density goal for this zone. By having a basement apartment, with only one unit above occupying all 3 above grade floors, the property will house 2 dwelling units only.

As a contributing historic structure, the project maintains the building's important character and contribution to the Dupont Circle zone.

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