MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Jennifer Steingasser, Deputy Director Development Review and Historic Preservation

DATE: February 22, 2011

SUBJECT: BZA Application 18173- 906 Maryland Avenue, NE - Square 936, Lot 24

SUMMARY RECOMMENDATION

The Office of Planning recommends approval of this application, which requests relief of the following:

- **Area variance to § 403.2 of Title 11 DCMR** to increase the lot occupancy from 60% to 71.8% (52 % existing);
- **Area variance to § 2300 of Title 11DCMR** to decrease the required setback distance from the centerline of the alley from 12 feet to 6.5 ft.

Because the garage addition would result in a lot occupancy non-conformity, relief from **§ 2001.3** is also needed.

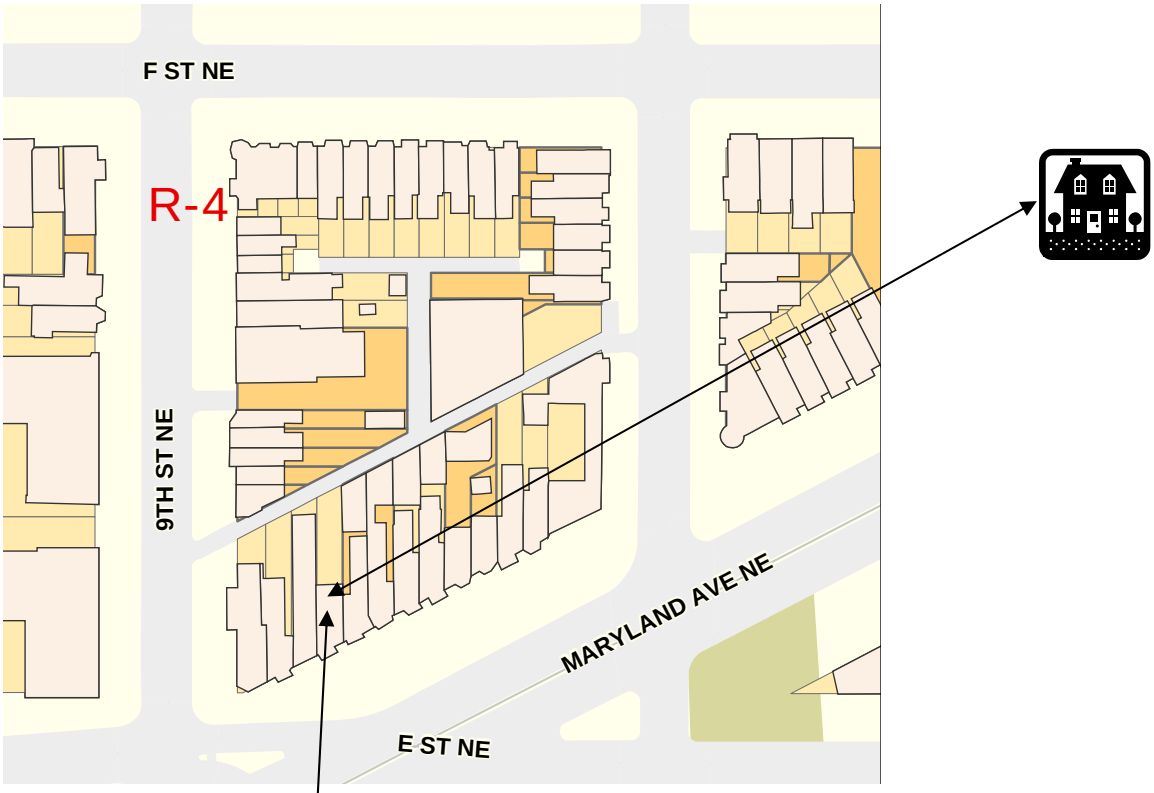
OP also recognizes that the existing, developed lot is non-conforming to § 401.3, lot area and width **(1,800 sf and 18 ft required; 1,632 sf and 16.3 feet existing).** The regulations permit this relief to be assessed by special exception pursuant to § 223.

AREA AND SITE DESCRIPTION

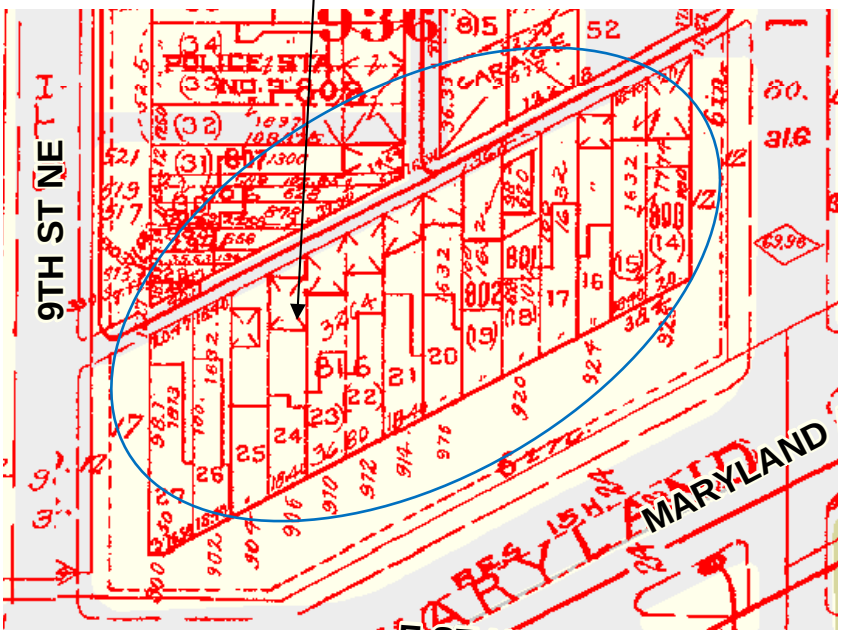
Address	**906 MD Ave NE.**
Legal Description	Square 936, Lot 24
Ward/ANC	6/ANC 6A
Lot Characteristics	Trapezoidal lot with10ft-wide alley access.
Existing Development	Three-story row house with basement. Survey information indicates that the garage for the adjacent house projects onto the subject property by about one foot.
Zoning	R-4 – row dwellings permitted.
Historic District	Capitol Hill.
Adjacent Properties	North: Across the alley are row dwellings. East, West & South: Row houses and flats and an apartment building at the north-west corner of Maryland Avenue and 9th Street NE
Surrounding Neighborhood Character	Mixture of residential and neighborhood serving commercial uses.

APPLICATION IN BRIEF

The applicant proposes to construct a garage at the rear of the property where a parking pad currently exists.



Zoning and Vicinity Map



1965 Baist Map of Properties within the block with Accessory Garages

The subject property is developed with a three-story row house constructed in 1900 and located on the north side of Maryland Avenue NE., between 9th Street and 10th Street NE. All of the lots on the south side

of the square, between the public alley and Maryland Avenue are similar in width and area, except for the end units. The row houses are also similar, although some have been modified over time. The 1965 Baist Map shows that the majority of homes, including the subject property, included accessory garages on the property. All are located within the R-4 district.

ZONING REQUIREMENTS

	Permitted/Required	Existing	Proposed	Relief
Lot Area (min.)	1,800 SF	1,632 SF	1,632 SF	Existing Nonconformity
Lot Width (min.)	18 feet	16.3 feet	16.3 feet	Existing Nonconformity
Lot Occupancy (max.)	60 percent	52 percent	71.8 percent	**Relief Required**
Building Height (max.)	40 ft/ 3 stories	30 feet	10 feet	None Required
Rear Yard (min)	20 feet	54.9 feet	31.8 feet	None Required
Centerline Setback	12 feet	N/A	6.5 feet	**Relief Required**

OFFICE OF PLANNING ANALYSIS
Relief from the following sections is required by the subject application.

Area Variance to § 403.2 and § 2001.3 (b) (2) – Lot Occupancy and addition to a nonconforming structure

Section 403.2 sets the maximum lot occupancy within the R-4 district for row houses and flats at 60 percent. The subject application proposes to increase the existing lot occupancy from 52 to 71.8 percent. The addition creates a new nonconformity of structure and addition combined by increasing the lot occupancy beyond that permitted in the R-4 District per Section 223.

A**rea Variance to § 2300.2(b) – Setback from Alley Centerline**
Section 2300.2 (b) sets the distance between a private accessory garage and the centerline of the alley at 12 feet. The subject application proposes to decrease this setback to 6.5 feet.

Uniqueness
The subject property was developed in 1900 and thus predates the 1958 Zoning Regulations. The property is encumbered by a large shade tree at the rear, three feet from an existing rear wall, which separates the outdoor patio from the parking pad. The distance from the wall to the rear lot line abutting the alley is approximately 20 feet. The surveyed property shows that the garage on the property to the east encroaches unto the applicant's property by at least a foot for 32 feet along the property line. The Zoning Administrator has determined that this encroachment area is included in the applicant's lot occupancy, which is currently 52%. The area of the encroachment is equivalent to about 2% lot occupancy. The lot is also narrow and narrows further at the rear due to this encroachment. *Taken together, they present a confluence of factors which make the property unique from the surrounding properties.*

§§ 403.2, 2001.3 (b) (2)

Practical Difficulty
Section 2001.2 permits ordinary repairs, alterations, and modernizations to non-conforming structures devoted to conforming uses, including structural alterations. The structure and addition combined would

not conform to lot occupancy requirements per § 2001.3 (a) but the addition would conform to use and structure requirements (§ 2001.3 (b) (1)).

The uniqueness of the property has created a practical difficulty for the applicant to remain within the permitted 70% lot occupancy per Section 223 for the garage addition and residence combined. The encroachment of the neighbor's wall effectively reduces the available lot occupancy to the applicant by at least 2%. Moving or removing the wall would be impractical, as it is part of a contributing structure in the Capitol Hill Historic District. Creating a garage on the subject lot of less than the existing 15 feet in width would not be practical for an enclosed garage space as it would negatively impact the width of the entry to the interior space of the garage.

§ 2300.2(b)

Practical Difficulty
The large shade tree in the rear yard of the property also creates a practical difficulty for the proposed garage to meet the required setback from the alley per Section 2300. Removal of the wall which separates the outdoor patio from the existing parking pad would severely impact the shade tree's roots, which may result in the tree's removal. The distance could not be increased to meet the 12 feet required since only 20 feet is available from the wall to the rear lot line and the parking area would need 19 feet in length as the minimum required for a permitted parking space. Therefore there is a practical difficulty for the applicant in meeting the required setback and avoiding the adverse impact to the mature shade tree and the neighborhood's tree canopy.

Impact on the Integrity of the Zone Plan
The proposal is not contrary to the intent of the Zoning Regulations. OP has consistently recommended denial of requests involving **variance** relief from § 2001.3 – particularly cases which involve lot occupancy relief. However, in this unique case, the existing development is impacted by the abutting property which encroaches unto the applicant's lot – a factor beyond the control of the applicant. The proposed lot occupancy would be slightly in excess of the maximum 70 percent permitted by **special exception** under § 223 of the Zoning Regulations, but would actually be under the 70% if the neighbor garage did not encroach onto the subject property. OP feels that the applicant would be able to make the § 223 special exception test as the proposed garage is not excessive in size. Similarly, the tree's removal to accommodate the required setback from the alley's centerline would adversely impact the neighborhood's character and the District's tree canopy.

The garage addition within the existing rear yard would not unduly affect light and air or compromise use and enjoyment of neighboring properties as it would not result in the garage extending further into the rear yard than either of the adjoining residences. The existing tree on the property would be retained to provide shade and privacy to adjoining properties. The garage would appear as residential, conforming to scale and neighborhood character, as viewed from the public alley. Indeed, the property previously included a garage as shown in the Baist Maps. Therefore, no adverse impacts are anticipated from the proposal to construct the garage within the existing parking area at the rear of the lot.

§ 401.3– Lot Area and Lot Width

The subject lot is a legal record lot in existence, developed in 1900 prior to the existence of the 1958 Zoning Regulations. In an R-4 District the minimum lot area is set at 1,800 square feet and the lot width at 18 feet. The subject lot exists at 1,632 square feet, and front and rear lot lines at 18 feet. However, its parallelogram shape creates an effective width of 16.3 feet. The Zoning Regulations anticipate irregularities in a lot's condition and Section 223 provides for relief as appropriate.

Adjacent lots are developed in accordance with the regulations, as is the subject lot, so there is no opportunity for making the lot a conforming size. The continued development and productive use of this lot is of obvious benefit to the neighborhood and the District as a whole.

COMMUNITY COMMENTS

The applicant met with ANC 6A on February 10, 2011. The ANC recommended approval of the proposed garage structure. The applicant also informed OP that the Capitol Hill Restoration Society recommended approval at its regularly held meeting on January 13, 2011.

SUMMARY

The Office of Planning recommends relief from the requested variances, including from the lot occupancy requirements for the R-4 District and from the minimum setback from the alley centerline to construct a garage at the rear of the property. OP also recognizes that the lot does not meet the required area standards including lot width and area, and as a precaution included relief from these requirements. The addition of the garage is not anticipated to have an adverse impact to the surrounding properties and no harm would incur to the intent of the Zoning Regulations and Map, as it is a permitted accessory structure to a residential use.

JS/kt