District of Columbia
Office of Planning

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Maxine Brown-Roberts, Project Manager
JL Joel Lawson, Associate Director Development Review

DATE: March 24, 2015

SUBJECT: BZA Case 18886 - Special Exception Review under § 223 for a rear addition at 2709 36th Street, NW.

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends **approval** of the following:

- § 403, Lot Occupancy (40% maximum, 50% under § 223, 44% proposed);
- § 405, Side Yards (8 feet required, 4.92 feet proposed); and
- § 2001.3, Expansion of a Nonconforming Structure.

II. LOCATION AND SITE DESCRIPTION

Address	2709 36th Street, NW
Legal Description	Square 1938, Lot 811
Ward	3
Lot Characteristics	Rectangular lot which abuts a 15-foot rear alley. The property slopes down from 36th Street toward the alley at the rear of the property.
Zoning	R-1-B – permits matter-of-right development of single-family detached dwellings.
Existing Development	Three-story, single family, detached dwelling, permitted in this zone.
Adjacent Properties	The property is surrounded on all aides by 2 to 3 story, single-family, detached dwellings
Surrounding Neighborhood Character	2 to 3 story, single family, detached dwellings.

Board of Zoning Adjustment
District of Columbia
CASE NO. 18886
EXHIBIT NO. 45

Site Location

House Prior to Addition

House Subsequent to Addition

III. PROJECT DESCRIPTION

Due to the topography of site, the house reads as 3-stories in front along 36th Street and 4-stories along the alley. At the front of the building, the first floor has been redesigned and expanded while to the rear it has been extended by approximately 5 feet. The Zoning Administrator has determined that the northern side yard is non-conforming as it has a width of 4.94 feet and not 5.16 feet as determined by the Applicant's survey. Under § 405.8, an addition or extension may be made to a building existing prior to May 12, 1958 provided that the width of the existing side yard shall be a minimum of 5 feet. The site does not meet this criterion and therefore the area of the side yard, 277 square feet, is included in the lot occupancy. The addition and the area of the side yard have resulted in an increase in the lot occupancy from 39% to 44%.

The Applicant has also filled in a portion of the southern side yard to meet the grade at the basement level. The filled area is below grade and does not result in any occupied area. The Applicant states that the filled area, which also accommodates a driveway, would be topped with pavers which would facilitate infiltration of water into the soil and would meet the 50% pervious surface requirement.

V. ZONING REQUIREMENTS

R-1-B Zone	Regulation	Existing (prior to construction)	Proposed	Relief
Height § 400	40-foot maximum	<40 feet	<40 feet	None required
Lot Width § 401	50-foot minimum	60 feet	60 feet	None required
Lot Area § 401	5,000 sf. minimum	6,450 sf.	6,450 sf.	None required
Lot Occupancy § 403	40% maximum 50% under § 223	39%	44%	**Required**
Rear Yard § 404	25 ft. minimum	35.3 ft.	29 ft.	None required
Side Yard § 405.8	North: 5 ft. (§ 205.8) South: 8-ft. min.	North: 4.94 ft. South:19.1 ft.	North: 4.94 ft. South: 8.13 to 11.09 ft.	**Required**

V. OP ANALYSIS

223 ZONING RELIEF FOR ADDITIONS TO ONE-FAMILY DWELLINGS OR FLATS (R-1) AND FOR NEW OR ENLARGED ACCESSORY STRUCTURES

223.1 An addition to a one-family dwelling or flat, in those Residence districts where a flat is permitted, or a new or enlarged accessory structure on the same lot as a one-family dwelling or flat, shall be permitted even though the addition or accessory structure does not comply with all of the requirements of §§ ***401, 403****, 404, 405,* ***406****, and* ***2001.3*** *shall be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.*

One-family detached dwellings are a permitted use in this zone. The applicant is requesting special exception review for §§ 403, 405 and 2001.3.

223.2 The addition or accessory structure shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:

(a) The light and air available to neighboring properties shall not be unduly affected;

The 4.93 feet side yard setback between the dwelling to the north and the subject property would not be increased and neither would the height of the building. Retaining the side yard and extending the building by 5 feet should not unduly block the light and air available to that dwelling.

The side yard between the building and the south property line would be between 8.13 feet and 11.09 feet which exceed the 8-foot minimum requirement. The adjacent property has a wall that exceeds 6 feet and has vegetation on top. Additionally, the second and third floors of the subject building are set back even further than the 8.13 feet and therefore it is unlikely to unduly block the light and air to the residence to the south. The light and air to the eastern and western properties would not be affected as they are separated by front and rear yards and the adjacent street and alley.

(b) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;

Currently, views onto the adjacent properties are minimal and would in some cases reduced by vegetation proposed by the Applicant along the property line. The windows on the property to the north are not aligned with those on the subject property while the property to the south has a high wall topped with vegetation and therefore preserving its privacy. In general, the privacy of use and enjoyment by the adjacent properties should not be unduly affected.

(c) The 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 frontage; and

The proposed renovation and expansion of the building would not result in the building being any closer to the street and there would still be a significant rear yard of 29 feet. The architectural style of the buildings along this portion of 36th Street and the neighborhood in general is varied with no consistent pattern except that they have pitched roofs. Buildings are 2, 2.5 and 3 stories, some have porches and some do not, some are brick and some are siding, some have picket fences, there are various styles of front doors and entrances, and some have been renovated and exhibit modern elements. While there are smaller homes along 36th Street, there are also homes which are of a comparable size. The resulting additions would therefore not intrude on the character scale and pattern of the houses along 36th Street and the neighborhood.

(d) In demonstrating compliance with paragraphs (a), (b) and (c) of this subsection, the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the proposed addition or accessory structure to adjacent buildings and views from public ways.

The application included plans, photographs and elevation drawings to show the relationship of the proposed addition.

*223.3 The lot occupancy of all new and existing structures on the lot shall not exceed **fifty percent (50%)** in the **R-1** and R-2 Districts or seventy percent (70%) in the R-3, R-4, and R-5 Districts.*

The proposed lot occupancy is 44%, less than the maximum 50% permitted by special exception in the R-1-B district.

223.4 The Board 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.

The Office of Planning does not recommend any special treatments.

> *223.5 This section may not be used to permit the introduction or expansion of a nonconforming use as a special exception.*

The subject property would continue to be used as the Applicant's residence and would not result in the introduction or expansion of a nonconforming use.

VI. AGENCY COMMENTS

No comments were received from other District agencies.

VII. COMMUNITY COMMENTS

The addition was reviewed by ANC 3C at their December 15, 2014 meeting and recommended denial of the application. The Massachusetts Heights Citizen Association also reviewed and recommended denial of the application.