

**Burden of Proof
Variance Application**

117 C Street SE Rear

To: The Office of Zoning
Government of the District of Columbia
Suite 210 South
441 4th Street, NW
Washington DC 20001

From: Stephanie and John Lester
Owner/Applicants
117 C Street SE
Washington, DC 20003

Date: May 25, 2011

Subject : BZA Application for 117 C Street SE
(Square 733, Lot 23)

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Stephanie and John Lester, owners of 117 D Street SE Rear, are seeking zoning relief to construct rear additions on the second and third floors of the existing primary structure, and to construct a second floor accessory apartment above a garage at the rear of the property.

Relief Requested:

- Variance from the height of accessory building requirements under Section 2500.4, pursuant to DCMR 11 Section 3103.2 to construct a second floor in the proposed garage, while not exceeding the 15'-0" maximum height above grade.
- Special exception from the lot occupancy requirement under Section 403, pursuant to DCMR 11, Section 223, to construct a two story addition on the rear of the existing row dwelling.
- Special exception from the lot occupancy requirement under Section 403, pursuant to DCMR 11, Section 223 to construct a two story garage at the rear of the property with a second floor apartment.
- Special exception from building lot control restrictions under Section 2516.1, pursuant to DCMR 11 Section 223, to construct a two story garage at the rear of the property with a second floor apartment.

Variance:

Variance from the height of accessory building requirements under Section 2500.4, pursuant to DCMR 11 Section 3103.2 to construct a second floor in the proposed garage, while not exceeding the 15'-0" maximum height above grade.

Section 3103 provides relief based on satisfying specific criteria. Those criteria are addressed separately below:

Subsection 3103.2:

As set forth in D.C. Code Ann §5-424(g)(3) (1981), "[w]here, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the original adoption of the regulations, or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under D.C. Code Ann. §5-413 to 5-432 (1981) would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, to authorize, upon an appeal relating to the property, a variance from the strict application so as to relieve the difficulties or hardship; Provided, that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map."

This provision has three main tests that must be proved by the applicant:

- 1.) **The physical characteristics of the property:**
 - a. **make it difficult for the owner to use the property in compliance with the Zoning Regulations (area variance) – ie. shape and size of the property, unusual topography or slope, soil problems, etc.**
 - b. **creates financial hardship for the owner in using the property consistent with the Zoning Regulations (use variance)**
- 2.) **Granting the application will not be of substantial detriment to the public good – ie. traffic, noise, lighting, etc.**
- 3.) **Granting the application will not be inconsistent with the general intent and purpose of the Zoning Regulations and Map.**

The physical characteristics of the property creates financial hardship for the owner in using the property consistent with the Zoning Regulations (use variance):

Because of the change in grade of approximately 3'-6" from the rear yard to the alley, a garage can be built by-right at a height of 18'-6", 15'-0" above the grade at the rear yard. The addition of the second floor within the proposed structure adds greatly to the feasibility of the project, and has no impact on the surrounding alley.

Granting of the relief will not be of substantial detriment to the public good:

1. The proposed apartment will not substantially add to the amount of traffic, noise or light. The number of occupants will increase to a maximum of two. The number of parking spaces will remain the same.
2. Many of the houses along Rumsey Court have garages.
3. Rumsey Court already has several alley dwellings, thus there is already a lot of pedestrian and vehicular activity on the alley.
 - a. The house at 128 D Street has a carriage house that is the same height as the proposed garage, and has a fully habitable second floor.
 - b. 115 C Street is an occupied two story carriage house.
 - c. 139 C Street Rear is an occupied two story carriage house.
 - d. 116 Rumsey Court is an occupied two story row dwelling.

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- e. 118 Rumsey Court is an occupied two story row dwelling.
- f. 120-1/2 Rumsey Court is an occupied two story row dwelling.
- g. 122 Rumsey Court is an occupied two story row dwelling.

Granting the relief will not be inconsistent with the general intent and purpose of the Zoning Regulations and Map:

1. The addition of the second floor above the garage will not impact the massing or architectural integrity of the alley.
2. Rumsey Court, as a thirty foot wide alley, is an appropriate location for alley dwellings. Two of the alleys connecting Rumsey Court with D Street SE and C Street SE are only 15' wide. The alley closest to 1st Street is only 10' wide at its narrowest.
3. Rumsey Court currently has several alley dwellings and other structures that abut the alley.
 - a. 128 D Street has a two story carriage house with living quarters on the second floor.
 4. 115 C Street is an occupied two story carriage house.
 - a. There are four dwellings on the alley across from 117 C Street SE Rear. They are at 116, 118, 120, and 122 Rumsey Court SE.
 - b. 110 D Street SE, directly across from 117 C Street SE, is a multi-unit five story apartment building which borders Rumsey Court with no rear setback.
 - c. At the west end of the alley, the Republican National Committee Building and the Republican National Club are multistory structures with no setback at the alley.

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Special Exceptions:

Special exception from the lot occupancy requirement under Section 403, pursuant to DCMR 11, Section 223, to construct a two story addition on the rear of the existing row dwelling;

Special exception from the lot occupancy requirement under Section 403, pursuant to DCMR 11, Section 223 to construct a two story garage at the rear of the property with a second floor apartment;

Special exception from building lot control restrictions under Section 2516.1, pursuant to DCMR 11 Section 223, to construct a two story garage at the rear of the property with a second floor apartment

The proposed construction raises the lot occupancy from 1009.2 SF (44.4%) to 1579.2 SF (69.6%), which is 9.6% over the allowed lot occupancy for a row dwelling in the R-4 Zoning District (11 DCMR 403.2) and 25.2% over the existing lot occupancy.

The proposed construction will create two primary structures on a single lot.

I. Summary

- A. Special exceptions qualify under 11 DCMR Section 223 because the proposed lot occupancy does not exceed 70% (11 DCMR 223.3) and the addition will not

have a substantially adverse affect on the use or enjoyment of any abutting or adjacent dwelling or property (11 DCMR 223.2 and 11 DCMR 2500.9).

- B. The proposed garage will improve both the aesthetics and the functionality of space.
- C. The proposed structure will be similar in size and style to the existing garages on the alley and in the vicinity.

II. Basis for Granting of Special Exception

Section 223 provides relief based on satisfying specific criteria under which additions to single-family dwellings may be permitted with a residential district. Those criteria are addressed separately below:

223.1 An addition to a one-family dwelling or flat, in those Residence Districts where a flat is permitted, that does not comply with all of the applicable area 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.

The two story garage with accessory apartment above is to be a second primary structure to a permitted single-family residence that is currently in conformance with Section 403.2 (lot occupancy). The proposed additions will be on the rear of the existing dwelling, on the second and third floors. The proposed garage will be on the rear (eastern) portion of the lot. The existing house has a lot occupancy of 44.4% which will be increased to 69.6% with the proposed garage. This is a 9.6% increase over the matter-of-right lot occupancy for a row dwelling allowed in the R-4 district, 25% over the current footprint of the residence, but it is below the 70% allowed by Section 223.3 as a special exception.

223.2 The addition shall not have a substantially adverse affect 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;**

Impact on 115 C Street SE

The project will have minimal impact on light and air availability of the neighboring property directly to the west (115 C Street SE), because:

- a) The proposed garage is east of 115 C Street SE. As such, the shadows of the proposed garage will fall only on the rear yard of 115 C Street SE, only in the morning.
- b) The new garage will abut an existing garage of similar dimensions at the rear of 115 C Street SE, which currently has no windows on the side that will abut the proposed garage.
- c) As the proposed garage is approximately 33.5' feet from the rear of 115 C Street SE, it will not impact air or light availability enjoyed by occupants of 115 C Street SE.

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- d) The second story addition proposed for the rear of 117 C Street SE will minimally impact 115 C Street SE, as it extends approximately 10'-5" beyond the rear of 115 C Street SE. However 115 C Street does not have any windows facing 117 C Street SE, but rather there is a solid brick party wall.
- e) The third story addition proposed for the rear of 117 C Street SE will minimally impact 115 C Street SE. The only impact will be to the light available to the rear-facing third story windows. The first and second floors will not be impacted because the windows on these levels are 8 feet beyond the proposed third floor addition.
- f) The owner/occupant of 115 C Street SE, has been presented with the proposed plans for the garage and has not raised any concerns.

Impact on 119 C Street SE

The project will have minimal impact on light and air availability of the neighboring property directly to the east (119 C Street SE), because:

- a) The proposed garage is west of 115 C Street SE. As such, the shadows of the proposed garage will fall only on the rear yard of 115 C Street SE, only in the late afternoon.
- b) The new garage will abut an existing garage of similar dimensions at the rear of 115 C Street SE, which currently has no windows on the side that will abut the proposed garage.
- c) As the proposed garage is approximately 29 feet from the rear of 119 C Street SE, it will minimally impact air or light availability enjoyed by occupants of 119 C Street SE.
- d) The second story addition proposed for the rear of 117 C Street SE will minimally impact 119 C Street SE, as it will not extend beyond the rear of 119 C Street SE. However 119 C Street does have windows facing 117 C Street, in the existing court that is approximately 5 feet wide.
- e) The third story addition proposed for the rear of 117 C Street SE will minimally impact 119 C Street SE. The only impact will be to the light available to the rear-facing third story windows. The first and second floors will not be impacted because the windows on these levels are beyond the proposed third floor addition.
- f) The owner/occupant of 119 C Street SE, has been presented with the proposed plans for the garage and has not raised any concerns.

Impact on Neighbors Directly South

Directly south of the proposed garage, across a 30' wide public alley is a five story apartment building that abuts the alley. Across the alley and to the east sit several alley dwellings. The distance from the proposed garage to the closest of the alley dwellings is roughly 48 feet. Additionally, many of the properties on both sides of the alley have garages with carriage houses or lofts, most of which appear to be original structures dating back to

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the early 1900s. As a result of the distance, the existing garages, and the wide alley, the proposed garage will not impact the air or light available to the properties on 100 block of D Street SE

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

The proposed project will not significantly alter the privacy and enjoyment of neighbors to the south, east or west.

Impact on 115 C Street SE

The project will have minimal impact on privacy enjoyed by the neighboring property directly to the west (115 C Street SE), because:

- a) The new garage will abut an existing garage of similar dimensions at the rear of 115 C Street SE, which currently has no windows on the side that will abut the proposed garage.
- b) The proposed garage is approximately 33.5' feet from the rear of 115 C Street SE. The windows in the first floor of the proposed garage are in a storage area not intended for habitation. The windows on the second floor facing the rear of 115 C Street SE are located in the kitchen and bathroom of the proposed apartment, which will minimize the amount of privacy lost to 115 C Street SE.
- c) The second story addition proposed for the rear of 117 C Street SE will minimally impact privacy enjoyed by 115 C Street SE, as 115 C Street does not have any windows facing 117 C Street SE, but rather there is a solid brick party wall. Windows have been minimized on the second floor facing 115 C Street, and the majority of the glazing is on the rear (south) façade.
- d) The third story addition proposed for the rear of 117 C Street SE will minimally impact privacy enjoyed by 115 C Street SE. The first and second floors will not be impacted because the windows on these levels are 8 feet beyond the proposed second floor addition. Windows have been minimized on the third floor facing 115 C Street and the majority of the glazing is on the rear (south) façade.
- e) The owner/occupant of 115 C Street SE, has been presented with the proposed plans for the garage and has not raised any concerns.

Impact on 119 C Street SE

The project will have minimal impact on light and air availability of the neighboring property directly to the east (119 C Street SE), because:

- a) The new garage will abut an existing garage of similar dimensions at the rear of 115 C Street SE, which currently has no windows on the side that will abut the proposed garage.

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- b) The proposed garage is approximately 29 feet from the rear of 119 C Street SE. The windows in the first floor of the proposed garage are in a storage area not intended for habitation. The windows on the second floor facing the rear of 115 C Street SE are located in the kitchen and bathroom of the proposed apartment, which will minimize the amount of privacy lost to 115 C Street SE.
- c) The second story addition proposed for the rear of 117 C Street SE will minimally impact the privacy enjoyed by 119 C Street SE, as it will not extend beyond the rear of 119 C Street SE. The proposed addition will have no windows facing 119 C Street SE, as the addition abuts the property line.
- d) The third story addition proposed for the rear of 117 C Street SE will minimally impact the privacy enjoyed by 119 C Street SE. The proposed addition will have no windows facing 119 C Street SE, as the addition abuts the property line.
- e) The owner/occupant of 119 C Street SE, has been presented with the proposed plans for the garage and has not raised any concerns.

Neighbors to the South

The project will not impact the privacy of the properties to the South because:

Directly south of the proposed garage, across a 30' wide public alley is a five story apartment building that abuts the alley. Across the alley and to the east sit several alley dwellings. The distance from the proposed garage to the closest of the alley dwellings is roughly 48 feet. Additionally, many of the properties on both sides of the alley have garages with carriage houses or lofts, most of which appear to be original structures dating back to the early 1900s. As a result of the distance, the existing garages, and the wide alley, the proposed garage will not impact the air or light available to the properties on 100 block of Street SE

Conclusion

In conclusion, the proposed additions and garage will not impact on the privacy and enjoyment of neighbors' property.

(c) the replacement, 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; and

The garage will be built in the same style as other garages in the alley and in the neighborhood, and to a similar scale. It will be made of brick that matches as closely as possible with the color and style of the existing structures in the alley, and will be built with detailing similar to the original garages/lofts in the alley, including arched brick detailing above the windows, two-over-two double hung wood windows and wide brick arch above the garage door.

The garage will not be visible from the front of the house.

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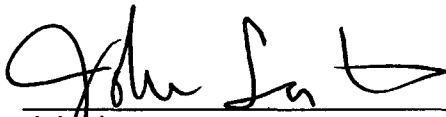
- (d) ***In demonstrating compliance with paragraphs (a), (b) and (c) of this subsection, the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the proposed addition to adjacent buildings and views from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

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

- a) Photos of the existing house and surroundings;
- b) Signatures of support from neighbors for a two story rear addition and a new garage;
- c) Plan and elevation drawings of proposed addition and garage, including a site plan showing the relationship of the proposed structures to adjacent buildings.
- d) 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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