

**MEMORANDUM**

TO: District of Columbia Board of Zoning Adjustment

FROM:  Arthur Jackson, Case Manager
Joel Lawson, Associate Director Development Review

DATE: April 3, 2012

SUBJECT: **BZA Case 18353** - expedited request pursuant to DCMR 11 § 3118 for special exception relief under § 223 to construct a rear addition to an existing two-story detached dwelling located at 4220 45th Street NW

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I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends **approval** of the following special exception relief pursuant to § 223 from:

- § 401 (minimum lot area of 5,000 square feet is required, a lot area of 3,690 square feet exists);
- § 403 (maximum lot occupancy of 40% allowed, 46.3% is proposed);
- § 404 (minimum rear yard of 20 feet required, 6.4 feet is proposed); and
- § 2001.3 (for increasing existing nonconformities).

The application also requested relief for the existing side yard setback of 5.29 feet from the northern property boundary. However, this relief does not appear to be required because the proposed rear addition would not extend or modify this nonconforming setback.

II. LOCATION AND SITE DESCRIPTION:

Address:	4220 45 th Street NW
Legal Description:	Square 1562, Lot 0817
Ward:	3E
Lot Characteristics:	The rectangular corner lot with an area of 3,690 square feet (0.08 acre), frontages along both 45 th Street and Verplank Place NW and no rear alley access (refer to Figure 1).
Zoning:	R-1-B
Existing Development:	A two-story one-family dwelling with a meaningful connection to a two-car garage. The existing dwelling was constructed in 1937 with a front yard setback of 3 feet 8 inches from 45 th Street. Vehicular access to the garage is provided by a driveway from 45 th Street.
Historic District:	None
Adjacent Properties:	Similar two-story detached dwellings, some with garages in the rear yards that are accessed from an alley and 45 th Street.

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18353

EXHIBIT NO. 28



III. PROJECT DESCRIPTION IN BRIEF

Applicant	Rodrigo Lopez-Quiroga (owner of record) and Sandra Lopez-Quiroga
Proposal:	Construct a one-story addition in the rear yard that would be approximately 7 x 14 feet in size to use as a family room. The addition would increase the lot occupancy from 40.6% to 46.3% and reduce the rear yard setback from 13.4 feet to 6.4 feet. A 6-foot tall gated wooden fence would surround the northern side yard and rear yard. The existing northern side yard setback of 5.29 feet would not be extended or changed by this addition.
Relief Sought:	§223 – for relief to increase the allowable lot occupancy, allow construction on the non-conforming lot, reduce the non-conforming rear yard setback and continue the non-conforming (northern) side yard setback.

6ZONING REQUIREMENTS

R--B District	Regulation	Existing ¹	Proposed ²	Relief:
Height (ft.) § 400	40 ft. max., 3 floors	32 ft., 2 fl.	SAME	None required
Lot Width (ft.) § 401	50 ft. min.	82 ft.	SAME	None required
Lot Area (sq.ft.) § 401	5,000 sq. ft. min.	3,690 sq. ft.	SAME	-1,310 feet
Floor Area Ratio § 401	None prescribed	0.85	Unknown	None required
Lot Occupancy § 403	40% max.	40.6%.	46.3%	+ 6.3%
Rear Yard (ft.) § 404	25 ft. min.	13.4 ft.	6.4 ft.	-18.6 feet
Side Yard (ft.) § 405	8 ft. min.	5 ft. 3 in. & 9 ft. 3 in.	SAME	None required ³

In response to an inquiry from the Office of Planning, the applicant confirmed that the existing lot occupancy identified in the zoning computation submitted with the application includes all matter-of-right construction approved to date on the subject property.

Based on the above analysis the proposed addition requires relief from the lot area, lot occupancy and rear-yard setback provisions for one-family detached dwellings in the R-1-B district. Relief is also required from § 2001 (b) (2) because this proposal would make existing aspects of the building (rear yard and lot occupancy) more non-conforming.

IV. 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.

¹ According to the submitted architectural plans

² Information provided by applicant.

³ Relief is not required because this proposal would not extend or change the nonconforming side yard setback

One-family detached dwellings with garages are permitted matter of right uses in this district. The proposed addition requires special exception relief under § 223 from the requirements for minimum lot area (§ 401), maximum lot occupancy (§ 403) and minimum rear yard setback (§ 404). Relief is also required from § 2001.3 because this proposal would make the current rear yard setback and lot occupancy even more nonconforming.⁴

223.2 *The addition or accessory structure 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;*

The proposed one story rear addition would sit in the shadows of the existing dwelling. Therefore, it would not unduly impact the air and light available to the neighbors.

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

The proposed fence around the rear yard would screen the addition. Otherwise the views to the neighboring property would be the same as from the rear dwelling.

(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 addition would be visible from the street but would be of the same masonry construction as the existing dwelling. It therefore would not intrude on the character and scale of the street.

(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 submission provided sufficient information about this proposal.

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 46.3% lot occupancy is less than the 50% allowed under this provision.

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.*

No special treatment is recommended.

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

No nonconforming use would be established under this proposal.

⁴ Approval of the other listed relief would resolve this inconsistency.

V. AGENCY COMMENTS

The District Department of Transportation expressed no objection to this proposal in a memorandum dated March 22, 2012.

VI. COMMUNITY COMMENTS

On March 9, 2012, a resolution approved by Advisory Neighborhood Commission (ANC) 3E in support of this request on March 8, 2012 was filed into the case record.

Letters of support from neighboring property owners were submitted with this application.

Figure 1

