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MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Maxine Brown-Roberts, Project Manager
 Joel Lawson, Associate Director Development Review
DATE: September 4, 2012
SUBJECT: BZA 18394 - request for special exception relief under § 223 to construct an addition to an existing row dwelling at 58 Rhode Island Avenue, NW

I. OFFICE OF PLANNING RECOMMENDATION

Eric Schultz (applicant) has requested special exception review pursuant to 11 DCMR § 3104.1, § 223 to accommodate a rear deck addition to rowhouse in the R-4 district:

- § 406 (minimum closed court width of 6 feet is required, a width of a between 5.5 and 0.8 feet is proposed);
- § 403 (maximum lot occupancy of 60% allowed, 70% proposed); and
- § 2001.3 (the proposed dwelling enlargement would create new nonconformity, rear yard).

OP also notes that the subject property is nonconforming in the following areas:

- § 401 (minimum lot width of 18 feet required, 16 feet exists at the rear); and
- § 401 (minimum lot area of 1,800 feet required, 1,760 square feet exists);

The Office of Planning (OP) is supportive of the addition only if the applicant has satisfied the adjacent neighbor that their privacy would not be unduly compromised.

II. LOCATION AND SITE DESCRIPTION:

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EXHIBIT NO. 26

Address:	58 Rhode Island Avenue, NW
Legal Description:	Square 3111, Lot 24
Ward/ANC:	5/5C
Lot Characteristics:	The lot is irregularly shaped with an area of 1,740 square feet and fronts on Rhode Island Avenue and to the rear is T Street, NW. The front of the lot is 18 feet wide while the rear of the lot narrows to 16 feet.
Zoning:	R-4 - detached and semi-detached single family dwellings.
Existing Development:	The property is developed with a row dwelling, which is permitted in this zone. The property had a rear deck which has been partially demolished.
Historic District:	Not within a historic district.

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Adjacent Properties:	To the east, north and south are 2- and 3-story row houses. To the east is a 3-story, multiunit, residential building.
Surrounding Neighborhood Character:	The neighborhood is predominantly row houses interspersed with multifamily apartment buildings and intuitional uses with some commercial uses to the west of the site at the intersection of Rhode Island Avenue, T Street and 1 st Street.



III. PROJECT DESCRIPTION IN BRIEF

Proposal:	Construct a new deck to the rear of the house. The addition would increase the lot occupancy from 60% to 70%.
Relief Sought:	§223 –to increase the allowable lot occupancy, reduce the rear yard and extend the non-conforming court.

IV. ZONING REQUIREMENTS

R-4 District	Regulation	Existing	Proposed ¹	Relief:
Height (ft.) § 400	40 ft. max., 3 floors	33.5 ft., 3 fl.	33.5 ft., 3 fl.	None required
Lot Width (ft.) § 401	18 ft. min.	18 ft. front 16 ft. rear	18 ft. front 16 ft. rear	Required at rear
Lot Area (sq. ft.) § 401	1,800 sq. ft. min.	1,740 sq. ft.	1,740 sq. ft.	Required
Floor Area Ratio § 401	None prescribed	0.71	0.71	None required
Lot Occupancy § 403	60% max.	60%	70%	Required
Rear Yard (ft.) § 404	20 ft. min.	40.4ft.	19.3 ft.	Required
Side Yard (ft.) § 405	0 ft. min.	0 ft.	0 ft.	None required
Closed Court § 406	6 ft. width	0.8 ft. east side 5.5 ft. west	0.8 ft., east side varies west side	Required

V. OP ANALYSIS:

The subject lot is presently nonconforming in the areas of lot area, lot width, and open courts. With the proposed deck addition, the nonconforming open courts would be extended, the lot occupancy would be increased, and the 40.4 feet rear yard would be reduced to 19.3 feet and thus creating a new non-conformity.

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.

Row dwellings are a permitted uses in the R-4 district. The proposed addition requires special exception review under § 223 from the required maximum lot occupancy (§ 403), minimum rear yard (§ 404), and minimum closed court dimensions (§ 406). Relief is also required from § 2001.3 because this proposal would create a new nonconformity, in the rear yard.

¹ Information provided by applicant.

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 base of the deck is 7.68 feet above the ground and the deck is open except for the western portion that is covered by a trellis. The western portion of the property currently has an open court with a width of between 5.4 feet and 6 feet. With the addition of the deck, the extended court will be narrowed to less than two feet. The trellised portion of the deck is adjacent to the house to the west (60 Rhode Island Avenue) which is setback from the property line in the vicinity of the proposed deck, and its side wall does not have any windows. Therefore, light and air to the house to the west should not be unduly affected.

There is currently an approximately 0.8 foot wide court between the subject house and the east property line. The wall of the building to the east, (49 T Street), is setback from the proposed deck by two feet, and has a number of windows and decks that would be close to the proposed deck. The property owner was concerned that the light and air to these windows would be affected. To address this concern, the applicant proposes to use cable railings on the deck to allow the minimal blockage of light and air to the adjacent property. The trellised portion of the deck has also been placed on the opposite side away from the windows. The applicant states that the adjacent property owner is satisfied with the use of the cable railings to address the impact on her light and air.

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

It does not appear that the privacy of the residents of the house to the west would be unduly compromised as there are no windows adjacent to the deck and the views to the rear window would be minimal or not possible. However, the deck would be visible from the windows of the apartments on the east. The proposed deck would be in close proximity to decks and windows on the building to the east. It does appear that the privacy of the residents of the apartments could be compromised. The applicant's has conveyed to OP that he is having conversations as to how privacy issues may be remedied.

- (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 rear deck would be visible from a public right-of-way. Five buildings, 58-66 Rhode Island Avenue have their rear yards along T Street, with 3 of the buildings having rear deck additions of varying sizes and styles, set well back from the roadway. Additionally, unlike the other decks, the property has a 6-foot high wood fence which would screen portions of the deck. Therefore, the proposed deck addition should not be out of character with development along T 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 70% lot occupancy is the maximum 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.

Due to the proximity of the deck to the windows of the adjacent neighbor, the applicant should address any privacy concerns expressed by the property owner.

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.

VI. AGENCY COMMENTS

The District Department of Transportation assessment will be submitted under separate cover.

VII. COMMUNITY COMMENTS

The applicant has been in conversations with the ANC-5C representative and adjacent neighbors. To date, OP has not been informed of the conclusion of these discussions.