

Memorandum in Support of Section 223 Special Exception Application

**Elizabeth Hilder and William R. Smith
3843 Livingston Street NW**

This is a request for a special exception under section 223 to allow construction of a two-story addition to the east side of an existing single-family detached dwelling at 3843 Livingston St. NW (Square 1859, Lot 71). The owners request permission to deviate by three feet from the eight-foot side yard requirement (section 405) in the R-2 District; they also request relief under section 2001.3 for non-conforming structures devoted to conforming uses.

I. Statement of Existing and Intended Use of the Structure

The structure is currently used as a single family dwelling. That use will continue to be the sole use of the structure if the special exception is granted. The proposed construction would permit the addition of a family room on the first floor and a bathroom and closet on the second floor.

II. The Proposed Special Exception Will Be in Harmony with the General Intent and Purpose of the Zoning Regulations and Map

For the following reasons, the proposed addition will not have a substantially adverse effect on any abutting or adjacent dwelling or property, nor will it visually intrude upon the character, scale, and pattern of houses on the street. It complies with all of the specific criteria set forth in section 223:

Section 223.2(a): The proposed addition will not unduly affect the light and air available to neighboring properties.

Properties to north and west: The addition will not be visible from the abutting properties on the north and west sides (5501 and 5509 39th Street, NW).

Properties to south: The addition will be visible to neighbors to the south, across Livingston Street, but the distance from the houses on these properties to the proposed addition is approximately 100 feet or more. Consequently, the proposed addition will have no effect on the light and air available to these properties.

Property to east: The adjacent property to the east (3839 Livingston Street NW) is separated from the subject property by a 15-foot wide public alley. The proposed addition would be 20 feet from the edge of this neighboring property and 24 feet from the house on this property. The proposed addition will not increase the overall height of the house. In addition, the proposed addition is smaller on the second floor, set back approximately five feet on the south side. Given the substantial separation created by the presence of the alley, the effect of a three-foot

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deviation in the side yard requirement on the adjacent dwelling to the east will be minimal or non-existent. Construction of the addition as proposed will still leave a separation between the two houses of 24 feet, which should assure light and air are not compromised. The owners of this neighboring property, Thomas Milch and Vicki Divoll, 3839 Livingston Street NW, have advised that they intend to submit a letter in support of the requested special exception.

Section 223.2(b): The proposed addition will not unduly compromise the privacy of use and enjoyment of neighboring properties.

The same considerations discussed above apply here. Because there will remain a substantial distance (24 feet) between the proposed addition and the neighboring house to the east, the proposed three foot deviation from the side yard requirement should have little or no effect on the privacy of use and enjoyment of this property. The neighbors to south across Livingston are several times further away. The proposed addition will not be visible from the abutting properties to the west and north.

Section 223.2 (c): Viewed from the street and alley, the proposed addition together with the existing structure will not visually intrude upon the character, scale, and pattern of houses on the street.

As a neighborhood of mostly older homes built before the current zoning laws were adopted, it is common for side yards adjacent to alleys to be “non-conforming” and significantly less than the currently required eight feet. A portion of the existing structure on the subject property sits four feet from the alley. All three of the other houses with side yards on this alley (between Livingston and Morrison Streets) also have side yards that are less than the current eight foot standard: They are five feet (3820 Morrison), four feet (3839 Livingston), and zero feet (3834 Morrison) from the alley. As a result, the proposed addition will be in harmony with the general pattern of houses in the area.

There would be limited visibility of the proposed addition from Livingston Street and the adjacent alley. Existing landscaping on the north and east sides of the property will partially block the view of the addition from the street and alley. In addition, new landscaping will be added in the side yard to replace anything that is damaged by construction.

Finally, the design, scale, and materials of the addition will maintain the character of the existing structure. The first floor of the addition will have a footprint of approximately 17' by 19' and the second floor addition is set back on the south side, and is approximately 17' by 14'. The height of the addition is below the height of the existing structure. The window style and cedar shingle siding of the proposed addition will mimic those of the existing house.

Section 223.2(d): The application includes photos and diagrams to show the relationship of the proposed addition to adjacent building and views from public ways.

The application includes:

- a copy of an Office of Zoning document, entitled “Extract of the District of Columbia Zoning Map” dated August 6, 2012, that shows the relationship of the subject property to neighboring houses;
- photographs of the front and east side of the property showing the views from public ways; and
- plans and elevations that show the location, design, and scale of the proposed addition.

Section 223.3: The lot occupancy does not exceed the fifty percent maximum for the R-2 district.

The proposed addition would increase the current lot occupancy from 24 percent to 29 percent, so the house would continue to be well under the 50 percent limit on lot occupancy.

Section 223.4: The Board may require special treatment for protection of adjacent or nearby properties.

No special treatment is needed to protect neighboring properties if permission is granted to build the proposed addition.

Section 223.5: No introduction or expansion of a nonconforming use

As noted above, the property will continue to be used solely as a single family dwelling.