

**BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA**

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Application of Valerie Baldwin

**APPLICANT'S PRE-HEARING STATEMENT
DECEMBER, 2012**

This Hearing Statement ("Statement") outlines the existing and proposed use of the property and the manner in which the application ("Application") complies with the specific tests and burden of proof for the special exception sought in this application before the Board of Zoning Adjustment (BZA)

NATURE OF RELIEF SOUGHT

This is an application pursuant to 11 DCMR § 3104.1 for a special exception under § 223.1 to allow the in-fill addition of an existing nonconforming open court, the enclosure of an existing roofed open porch and the construction of a second story addition to an existing one-family row dwelling not in compliance with the lot occupancy limitation for its underlying R-4 Zone District, as further set forth under §§ 403 and the nonconforming structures provisions of § 2001.3

SUMMARY OF APPLICATION

The subject property is improved with a two-story, plus cellar row dwelling or a one-family dwelling not having side yards on either side of the common property lot line.

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At its rear the building features a nonconforming open court, and because the open court is less than five feet (5ft.) in width, that court by definition counts towards the existing percentage of lot occupancy for subject property notwithstanding that the court is open from grade to the sky and is otherwise unobstructed. The building also features a roof-covered open porch.

In light of the foregoing, the proposed addition as described above and for which special exception is sought results in no aggregate increase in the existing percentage of lot occupancy for the subject property. The existing percentage of lot occupancy for subject property is currently 65% approximately and will remain the same after the proposed construction.

The proposed project will eliminate an existing nonconformity of structure by in-fill addition, and constructs a second story atop an existing porch already a part of the building footprint.

The proposed construction will not provide a side yard and will therefore not have any openings on either side of the common property lot line. The proposed addition will not extend beyond the existing footprint, and will not exceed the height of either of the abutting adjacent buildings, so it will not tend to affect the light and air, or the privacy of use of the two most proximal properties.

JURISDICTION OF THE BOARD

The application is properly before the BZA. The Board is authorized to grant the requested special exception under § 8 of the Zoning Act, DC Official Code § 6-641.07 (g) (2) (2001), as further set forth in 11 DCMR § 3104.1

PROPERTY LOCATION AND DESCRIPTION

The property is located at 608 Constitution Avenue, N.E. in the Capitol Hill neighborhood of the District in Square 0866 Lot 0022 (the "Property" or "Subject Property"). The Subject Property is an interior lot situated within a triangular Square bounded by Constitution Avenue to the Southeast, 6th Street on the North and Massachusetts Avenue to the Northwest.

The lot size of the subject property, at 1242.72 square feet, is consistent in size with a series of lots which are isolated on the southeast side of the Square by the single alley system within the Square, with comparable lot sizes ranging from a low 627 square feet to 1359 square feet.

The subject property is abutted by a ten feet (10 ft.) public alley at its rear. The property which abuts the subject property on the west features a second story enclosure above a first floor open porch

The subject property is improved with two-story row dwelling as previously described

STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

The Applicant requests approval from the Board of Zoning adjustment (BZA) of a special exception under § 223 to allow an addition to the existing single family dwelling as described above. At approximately 65% lot occupancy, the existing building footprint is in excess of the maximum permitted percentage of lot occupancy (60%) for its underlying R-4 zone district. Although an existing nonconformity of structure, the proposed addition is nevertheless subject to relief under the nonconformity of structures provisions of § 2001.3 and the lot occupancy table § 403, as encapsulated under § 223

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Approval of an addition under § 223 are subject to the following provisions:

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

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.

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 or nearby properties.

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

The applicant submits that the proposed addition complies with the standards and requirements of § 223.2 as follows:

- (a) The proposed addition is an unobtrusive enclosure of an already roofed open porch and the vertical extension of same above what is essentially the same building footprint. As described above, although the applicant proposes to eliminate a nonconforming open court in order to make adaptive use of the space for purposes of a pantry and powder room, as the project plans depict, the project results in no aggregate increase in the existing percentage of lot occupancy.

The adjoining building which abuts the subject property at the eastern common property lot line is constructed to the property lot line and the wall does not feature any openings or fenestrations, hence the light and air of that neighboring property will not be impacted whatsoever. As aforementioned, the neighboring or adjoining property to the west of subject property features a second story addition and enclosure with a window, but that window is removed a distance of at least three feet (feet) in compliance with the minimum fire separation distance to a property lot line under the Construction Codes for which any opening on a wall is permitted.

The proposed addition on subject property will not exceed either of the adjacent buildings in height, massing or elevation profile.

The applicant contends that under the prevailing circumstances described above, the light and air available to the two most proximal and neighboring properties will not be unduly affected.

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- (b) The proposed addition will constitute a second floor in a zone district which allows three (3) stories as a matter of right. The adjoining neighboring properties occupy equal or greater percentage of lot occupancy on respective lots, hence the depth of the building are equal or greater than the existing building on subject property; are row structures, as such do not setback from the common property lot lines; are of similar elevation profile and are separated by existing fences.

No openings or windows are proposed on the sides of the proposed second story addition, save for that facing the alley which abuts the subject property at its rear lot line.

For all the above reasons, the applicant contends that the privacy of use and enjoyment of the most proximal and neighboring properties will not be unduly compromised

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- (c) The subject street frontage is comprised of a series of row dwellings which are two (2) to three (3) stories, including the subject property of this application before the Board. The proposed addition will be visible only partially from the rear alley and is removed from the rear property lot line a distance equal to or greater than the required twenty feet (20 ft.) The proposed addition is obscured by the existing adjoining buildings which are already two stories for a depth equal or greater than the footprint of the subject property.

By virtue of the consistency of the proposed addition with the scale, character and pattern of houses along the street frontage, the addition will not visually intrude on those elements as viewed from the alley or any other public space.

- (d) The architectural plans, renderings, plat and other graphic illustrations, including photographs of neighborhood properties adjacent to the property of application

confirm the compatibility of scale and pattern of the proposed addition to the prevailing character of the neighborhood.

Section 223.3 – The Subject Property is located within the R-4 Zone District, and the maximum proposed lot occupancy at approximately 65% is well under the 70% limit set forth under this section for the underlying zone.

Section 223.4 – The proposed addition is screened on both abutting lot lines and the alley by a fence to ensure privacy of use and enjoyment of the two adjoining properties to the west and east, and has been reviewed and approved by the Historic Preservation Office (HPO) as to material finish and compatibility with neighboring properties.

Section 223.5 - The current use of the Subject Property is residential one-family dwelling, a conforming use in the underlying R-4 zone. No change in use is contemplated or proposed.

CONCLUSION

The Board is authorized to grant special exception, in paraphrase, where in its judgment, the relief will be in..... “harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely, the use of neighboring properties.....”

The Applicant submits that the instant application complies with all conditions for granting of the requested special exception set forth in the provisions of § 223 as outlined above and respectfully requests that the application be granted.

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