

C. Application for Special Exception Relief

Michelle Hassine (the "Applicant"), the owner of 2919 39th street, NW (Lot 0076, Square 1814) (the "subject property") hereby makes application to the District of Columbia Board of Zoning Adjustment (the "Board") for a special exception pursuant to § 202.10 of the District of Columbia Zoning Regulations, 11 DCMR (February 2003) (the "Zoning Regulations") to construct an accessory apartment within a single family residence in an R-2 Zoning District.

1. Statement of Existing and Proposed Use

The Applicant owns and resides in the subject property, a stone, brick, and frame semi-detached single-family residence situated on a 3,885 Sq. Ft. lot. The existing house contains 4 bedrooms, 3 baths and comprises approximately 3,072 Sq. Ft. of gross floor area on four levels. The four levels include a basement, a first floor, a second floor, and a finished attic. The basement has a separate entrance to the house into the garden at the back of the house. The rear yard is surrounded by a wooden fence approximately six feet in height. There is also a parking pad for one vehicle on the alley (See Exhibits 1, 3A, 3B, and 3C).

The Applicant desires to reconfigure the basement level of the house to create a one-bedroom accessory apartment containing approximately 927 Sq. Ft. of floor area. The former owners have used the present area of the basement as a storage and family room (Exhibits 5A, 5B, and 6).

2. Surrounding Area Description

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18532
EXHIBIT NO. 4

Board of Zoning Adjustment
District of Columbia
CASE NO. 18532
EXHIBIT NO. 4

RECEIVED
D.C. OFFICE OF ZONING
JAN 24 AM 9:00

The subject property is a rectangular parcel located on the east side of 39th Street, N.W., midblock Cathedral Road and Garfield Street (Square 1814, Lot 0076). The lot is approximately 30 feet wide and 129.5 feet deep, and has an area of 3,885 square feet. (Exhibit 1)

The subject property was built in 1937 and is set back approximately 22.8 feet from the street frontage along 39th Street on the northern side, and has a side yard approximately 6 feet wide along the eastern property line. The property also contains a one-story accessory garage on its southern part. The Southern side of the property abuts a public alley along the rear property lines. A parking pad with space for one vehicle is located at the rear of the subject property.

Properties in the vicinity of the subject property are improved primarily with two- and three-story row, semi-detached, and detached dwellings, and the surrounding neighborhood character is predominately moderate-density residential. To the north of the property, across the street on 39th street and located on both Cathedral Avenue and 39th street is located a large nine-story apartment building, the Westchester, 4000 Cathedral Avenue, N.W. (Exhibit 4)

3. Basis for request for a use variance

Section 202.10 of the Zoning Regulations provides that an accessory apartment may be added within an existing one-family detached dwelling, provided that it meets the specific

conditions set forth in § 202.10 (a) to (i). The Applicant's responses to those particular conditions within its direct control are set forth below.

202.10 (a) The lot shall have a minimum lot area of at least four thousand square feet (4,000 ft.²) for R-2 zone District.

The Lot size has 3,885 sq. Ft. and falls short of the required minimum by 115 Sq. Ft.

202.10 (b) The house shall have at least two thousand square feet (2,000 ft.²) of gross floor area, exclusive of garage space;

The house contains a gross floor area of approximately 3,072 Sq. Ft on four levels, as evidenced by the drawings attached hereto as Exhibits 5, 7A, 7B, and 7C prepared by R. A. Bell, AIA, the architect who drew the plans for the former owners of the house. The house exceeds the minimum floor area required by this subsection.

202.10 (c) The accessory apartment unit may not occupy more than twenty-five percent (25%) of the gross floor area of the house;

Of the total floor area, the accessory apartment would occupy 927 Sq. Ft., or 30 percent of the structure. The floor area of the accessory apartment exceeds the required maximum by 159 Sq. Ft., or 5 percent.

202.10 (d) The new apartment may be created only through internal conversion of the house, without any additional lot occupancy or gross floor area; garage space may not be converted;

The accessory apartment would be created through internal renovation within the existing structure.

202.10 (e) If an additional entrance to the house is created, it shall not be located on a wall of the house that faces a street;

The accessory apartment will be accessed through an existing door on the south back of the dwelling, not facing the street.

202.10 (f) Either the principal dwelling or accessory apartment unit must be owner-occupied;

The Applicant will continue to occupy the principal dwelling as her residence.

202.10 (g) The aggregate number of persons that may occupy the house, including the principal dwelling and the accessory apartment combined, shall not exceed six (6);

The Applicant intends to rent the accessory apartment to no more than (2) persons, so that the total occupancy load of the principal dwelling and the accessory apartment combined will be no more than six people, which is the maximum permitted.

202.10 (h) An accessory apartment may not be added where a home occupation is already located on the premises; and

No home occupation is currently located on the premises.

202.10 (i) The Board may modify or waive not more than two (2) of the requirements specified in paragraphs (a) through (h) of this subsection; provided, that the following occurs:

- (1) The owner-occupancy requirement of paragraph (f) shall not be waived;**

- (2) Any modification(s) approved shall not conflict with the intent of this section to maintain a single-family residential appearance and character in the R-1, R-2, and R-3 Districts; and**
- (3) Any request to modify more than two (2) of the requirements of this subsection shall be deemed a request for a use variance.**

§ 202.10 states that an accessory apartment may be added “within a one-family *detached* dwelling” (emphasis added), while the Applicant’s property contains a one-family semi-detached dwelling. Pursuant to § 202.10 (i), the Board may modify or waive up to two of the requirements “specified in paragraphs (a) through (h) of this Subsection” (except for the owner occupancy requirement), subject to certain limitations. The reference to “one-family detached dwelling” occurs in the introductory provision of § 202.10, not as a requirement listed in paragraphs (a) through (h). However, § 202.10 (i) (3) specifies that “[a]ny request to modify more than two (2) of the requirements *of this subsection* shall be deemed a request for a use of variance” (emphasis added), which implies that the Board may consider, as a special exception, a request for a waiver of any requirement of § 202.10, not only those requirements listed in paragraphs (a) through (h).

For these reasons, the present application introduces a request for a use variance:

- 1) The accessory apartment is added in an existing one-family semi-detached dwelling. For this reason, this application must request that the Board waives the limitation that an accessory apartment be added to an existing detached dwelling, on the grounds that the envisaged conversion within the

existing house of the property effects no change in the appearance of the property visible from any public street;

- 2) Since the surface of the total lot is 3,885 Sq. Ft., the Applicant must request that the Board waives the limitation in § 202.10 (a), on the same grounds as mentioned above.
- 3) The gross floor area of the accessory apartment would exceed the requirement by 159 Sq. Ft. and the Applicant must request that the Board waives the limitation in § 202.10 (c) on the same ground as mentioned above. Additionally, it should be noted that the basement area contains the utilities units of the dwelling, to the effect that the accessory apartment cannot have a smaller gross floor area than the one envisaged.

The application meets the requirements of paragraphs (b), and (d) through (h).

D. Conclusion

Based upon the foregoing discussion, the Applicant requests that the Board grant the request for a use variance under § 202.10 of the Zoning Regulations to construct an accessory apartment within a single-family residence and to permit the Applicant to convert the basement of the dwelling for this purpose.

Respectfully submitted,

Michelle B. Hassine