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MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Arthur Jackson, Case Manager
 Joel Lawson, Associate Director Development Review
DATE: April 16, 2013
SUBJECT: BZA Case 18537 – request for special exception relief under § 223 for a proposed two-story rear addition to an existing row dwelling at 525 5th Street SE

I. OFFICE OF PLANNING RECOMMENDATION

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

- § 403 (maximum lot occupancy of 40% allowed, 61% is proposed); and
- § 405 (minimum side yard setback of 8 feet required, 7'-10" is proposed).

While relief from § 2001.3 (a) and (b)(2) would be required because the proposed addition would increase and extending nonconforming aspects of the property, approval of the requested relief would make the existing and proposed development compliant, thereby eliminating the need for this relief.

II. LOCATION AND SITE DESCRIPTION:

Address:	525 5 th Street NW
Legal Description:	Square 0822, Lot 0825
Ward:	6B
Lot Characteristics:	A rectangular interior lot with an area of 1,997 square feet (0.05 acre) and no rear alley access (refer to Figure 2).
Zoning:	CAP/R-4 – semi-detached dwellings are allowed in this district
Existing Development:	According to the 1998 Experian District of Columbia Assessment Directory, this one-family semi-detached dwelling dates from 1888. Department of Consumer and Regulatory Affairs records indicate that multiple permits were issued between April 2004 and April 2007 for a new two-story addition, to make additional interior renovations, restore the exterior façade, make structural repairs and replace the roof. There is an accessory building that appeared to be in the northern side yard, and the side and rear yards are bordered by a wooden stockade fence over 6-feet tall.
Historic District:	Capitol Hill
Adjacent Properties:	Predominantly two-story row dwellings along both sides of 5 th Street SE.

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18537
EXHIBIT NO. 29

Board of Zoning Adjustment
District of Columbia

III. PROJECT DESCRIPTION IN BRIEF

Applicant	John Merrick and Heather Phillips, the owner of record
Proposal:	To construct a rear 1-story screened porch with a second-floor deck. The existing lot is non-conforming for lot area and width. The existing dwelling and accessory structure are also non-conforming: the lot occupancy of 57.4% exceeds the allowable 40%; and the existing side yard setback widths of 2'-10" and 7'-10" are less than the minimum 8 feet required in the CAP/R-4 district. The proposed addition would increase the nonconforming lot occupancy to 60.7% and extend the non-conforming 7'-10" side yard setback. As a result, the applicant requested special exception relief in accordance with § 223.
Relief Sought:	§223 – for relief for the existing non-conforming lot occupancy and to extend the nonconforming side yard setback.

IV. ZONING REQUIREMENTS

CAP/R-4 District	Regulation	Existing	Proposed ¹	Relief
Height (ft.) § 400	40 ft. max., 3 fls.	22 feet, 2 fls.	SAME	None required
Lot Width (ft.) § 401	30 feet min.	19 feet	SAME	Existing, nonconforming
Lot Area (sq. ft.) § 401	3,000 sq. ft. min.	1,997 sq. ft.	SAME	Existing, nonconforming
Lot Occupancy § 403	40% max.	57.4%	60.7% ²	+ 20.7%
Side Yard (ft.) § 405	8 feet min.	2'-10", 7'-10" feet	SAME (extended)	-5'-2", 2 inches

The Office of Planning (OP) initially questioned the accessory building to the west of the existing dwelling because § 2500.2 only allows an accessory building to be located in the rear yard. However, in response to an inquiry, the Zoning Administrator stated that an accessory building in a similar circumstance had been determined to be located in the rear yard.

V. 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 Information provided by applicant.

One-family semi-detached dwellings are permitted as a matter of right in R-4. Special exception relief under § 223 is required in this case from the maximum allowable lot occupancy (§ 403) and the minimum required side yard setback (§ 405).

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;*

A rear porch and second floor deck currently exist on the property. The proposed screened porch with a second-floor deck would not significantly change the status quo. As a result, the air and light available to the neighbors would not change.

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

Solid wall panels on the porch level would block views to the south and views from the new second-floor deck would be the same as from the existing deck. As a result, the privacy of neighboring properties should not be unduly compromised.

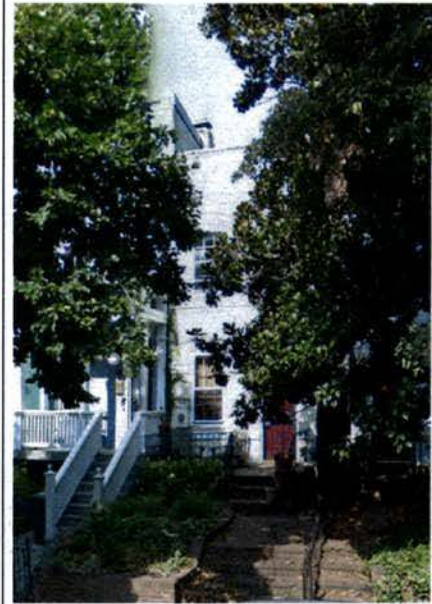
- (c) *The addition or accessory structure, together with the original building, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale and pattern of houses along the subject street frontage; and*

Because the property is located in the Capitol Hill Historic District, addition plans were reviewed by the State Historic Preservation Office (SHPO). No concerns were expressed about the proposed addition.

- (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 information provided was sufficient.

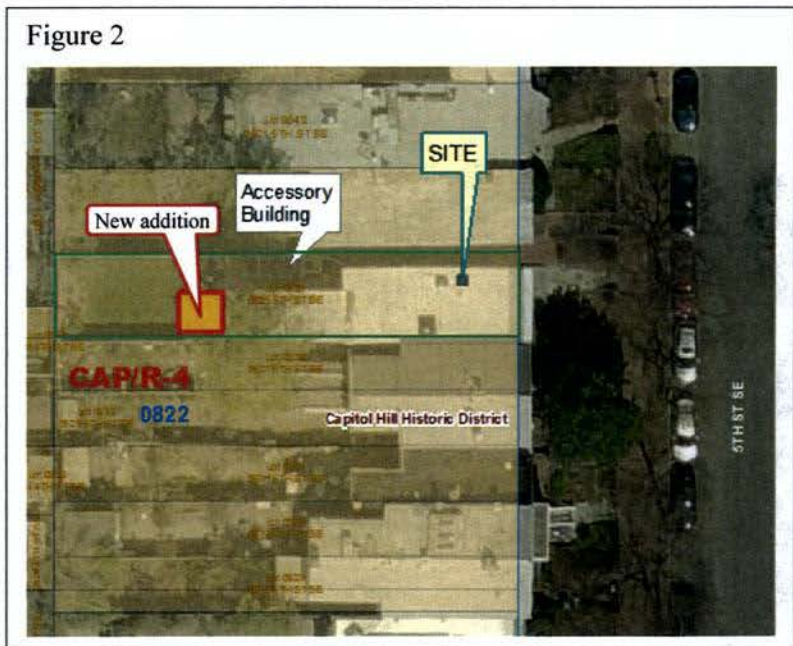
Figure 1



- 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 60.7% is within the allowable limit 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.*



Based on SHPO staff comments, no changes are required.

- 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.

Based on this analysis, this application meets the standards for special exception approval.

VI. AGENCY COMMENTS

The District Department of Transportation did not object to approval of the requested special exception in its memorandum to the Board of Zoning Adjustment dated February 21, 2013.

VII. COMMUNITY COMMENTS

In a letter dated March 6, 2013, the Capitol Hill Restoration Society indicated that its Zoning Committee voted unanimously to support this application.

Letters of support from the owners of neighboring properties on either side of the site at 523 and 527 5th Street SE were provided with the original application.

To date Advisory Neighborhood Commission (ANC) 6B has not added a resolution on this request to the case record file.