

RECEIVED
16 OCT 15 PM 3:43
District of Columbia Office of Planning



MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Arthur Jackson, Case Manager
Joel Lawson, Associate Director Development Review
DATE: October 15, 2013
SUBJECT: BZA Case 18639 – Request for special exception relief in accordance with § 223 for an addition to a two-story, semi-detached one-family dwelling located at 229 12th Street SE

I. SUMMARY RECOMMENDATION

The Office of Planning (OP) **recommends approval** of the special exception relief requested in accordance with § 223 from:

- § 403.2 (a maximum lot occupancy of 60% allowed for row dwellings ¹, 65.9% is now proposed);
- § 404.1 (a minimum rear yard setback of 20 feet is required, 17 feet is now proposed); and
- § 2001.3 (a) and (b) (2) to expand a nonconforming structure.

This proposal also appears to require relief from § 406.1 (a minimum open court width of 6-feet wide is required, one proposed court would be 3 feet-wide). The listed relief reflects the revised site plan submitted by the applicant on October 8, 2013. The request for lot area relief from § 401.3 was not repeated in the application supplement.

II. AREA AND SITE DESCRIPTION

Address:	229 12 th Street SE
Legal Description:	Square 0990, Lot 0817
Ward:	6B
Lot Characteristics:	The subject 1,679 square-foot (0.04 acre) property is rectangular in shape with frontage along 12 th Street SE. The other three sides are bounded by developed properties.
Existing Development:	The two-story, one-family <i>semi-detached</i> dwelling of masonry construction sets 3-feet back from the southern (side) property boundary. A wooden gate between the subject dwelling and neighboring row dwelling to the south controls pedestrian access into the side yard from the 12 th Street SE right-of-way. Surrounding the masonry patio, planters, trees and shrubbery in the grassy rear yard is a wooden fence 6-7 feet tall (refer to Figures 1 and 2).

¹ The proposal addition would convert the existing semi-detached structure into a row dwelling.

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18639

Board of Zoning Adjustment
District of Columbia
EXHIBIT NO. 26

CASE NO. 18639

EXHIBIT NO. 26

Zoning:	R-4 – allows one-family semi-detached and row dwellings as a matter of right.
Historic District:	Capitol Hill
Adjacent Properties:	Predominantly two-story row dwellings of similar construction. There is a facing open court in the rear yard of the neighboring row dwelling to the north (227 12 th Street SE) and no windows in the northern façade of the row dwelling to the south (231 12 th Street SE).
Surrounding Neighborhood Character:	Moderate-scale residential (refer to Figure 1).

III. APPLICATION IN BRIEF

Applicants:	New Vision Properties LLC (owner of record)
Proposal:	The modified proposal is for the construction of a two-story addition that would be offset from the existing structure. According to the Applicant's Statement, the existing dwelling was constructed in 1900 so it predates the current Zoning Regulations. The existing 3-foot wide side yard is narrower than the required minimum width of 8-foot in the R-4 district. In accordance with the Zoning Regulation definition of "Building area", this yard is included in lot occupancy calculation. The result is a lot occupancy of 41%² which exceeds the 40% allowed for semi-detached dwellings in this district. As a consequence, the current lot occupancy and side yard width are nonconforming. Recent modification to the submitted plans would still extend the dwelling between side property boundaries and turn the existing <i>semi-detached structure</i> into a <i>row dwelling</i>. The referenced nonconforming 3-foot <i>side yard</i> along the southern boundary would then become a nonconforming <i>open court</i>. In response to concerns expressed by the owner of the abutting property to the north, the original site plane was modified to also include a conforming 7-foot open court along the northern property boundary. In response to original plan submission to the Department of Consumer and Regulatory Affairs, the Office of the Zoning Administrator issued a memorandum dated June 12, 2013, stating that Board of Zoning Adjustment special exception approval was required pursuant to § 223.1 because the dwelling and addition would not comply with: • § 403.2 maximum lot occupancy; • § 406.1 required minimum open court width; and • §2001.3 for expansion of a nonconforming structure.

² Lot occupancy calculation based on the submitted plat: (30 x 23 feet) / 1,679 square feet (lot area) = 41%

Relief Sought:	§ 223 – special exception relief from the required lot occupancy, minimum open court width and standards for expansion of a nonconforming structure. OP noted that the revised plan would still require relief for the open court 3-feet wide.
----------------	--

IV. ZONING REQUIREMENTS

R-4 District	Regulation ³	Existing	Proposed	Relief:
Rear Yard § 404.1	20 feet	43 feet	17 feet	-3 feet
Lot Occupancy § 403.2	60%	41% ²	65.9%	+5.9%
Open Court Width (ft.) § 406.1	6 feet min.	N/A	3 feet	- 3 feet

The applicant also requested relief from the required rear yard setback under § 404.1 and § 2001.3 standards for the expansion of nonconforming structures:

§ 2001.3 *Enlargements or additions may be made to the structure; provided:*

- (a) *The structure shall conform to percentage of lot occupancy requirements, except as provided in § 2001.13; and*
- (b) *The addition or enlargement itself shall:*
 - (1) *Conform to use and structure requirements; and*
 - (2) *Neither increase or extend any existing, nonconforming aspect of the structure; nor create any new nonconformity of structure and addition combined.*

The existing structure does *not* meet the lot occupancy standard for a semi-detached dwelling of 40%. While the proposed addition would eliminate the irregular side yard setback, it would *create* a nonconforming open court and make the current lot occupancy *more* nonconforming (even for a row dwelling).

Figure 1



Accordingly, relief from § 2001.3 (a) and (b) (2) appears needed in this case.

V. OFFICE OF PLANNING ANALYSIS

Special exception relief per § 223 from §§ 403.2, 404.1, 406.1 and 2001.3 (a) and (b) (2)

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.*

One-family semi-detached and row dwellings are a permitted uses in this zone district. Special exception relief was requested in accordance with § 223 from: § 403.1 because the dwelling and addition would exceed the allowable lot occupancy; § 404.1 because the rear addition

³ Requirements listed are for row dwellings in this zone district.

would encroach into the required rear yard setback; and § 2001.3 because expanding the building as proposed would increase one nonconforming characteristic while creating another. As noted above, relief also appears required from § 406.1 because the new open court would lack the required minimum width.

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;*

The rear addition would extend as far into the rear yard as the neighboring dwelling to the south but not quite as far as the neighbor to the north. A portion of the rear wall of the northern dwelling sets back from the shared boundary and includes facing windows. The proposed addition on the subject property would have a similar treatment, sitting back 7-feet from the shared boundary.

As a result, the proposed addition should not unduly impact the air and light available to the neighboring properties.

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

Exterior glass windows of the façade would face the neighboring open courtyard to the north, and the rear yard. With the introduction of a rear open court, it appears unlikely that the privacy of use and

enjoyment of the neighboring properties would be impacted.

Figure 2



- (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 DC Historic Preservation Review Board (HPRB) considered this standard as part of its review of potential impacts on the integrity of the Capitol Hill Historic District. At its public hearing on September 26, 2013, the HPRB reviewed the modified architectural plan set. While no major concerns were expressed, the Commission did not take final action but directed the State Office of Historic Preservation (SHPO) staff to work with the applicant and The Capitol Hill Restoration Society (CHRS) to arrive at a final design solution.

SHPO staff indicated that the plan modification did not significantly change the extent of the required zoning relief identified above.

- (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.*

Submitted plans and photographs were sufficient.

- 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 65.9% lot occupancy is within the allowable maximum.

- 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*

No special treatment is recommended.

- 223.5 *This section may not be used to permit the introduction or expansion of a nonconforming use as a special exception.*

Granting this request would not introduce or expand a nonconforming use.

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

VI. AGENCY REVIEW

HPRB comments are summarized above.

The CHRS is working with the applicant and SHPO on the final addition design.

Based on the information provided in the original application, the District Department of Transportation stated it had no objection this proposal in its memorandum dated September 12, 2013.

VII. COMMUNITY COMMENTS

This application was forwarded to Advisory Neighborhood Commission (ANC) 6B for review and comment. To date, no ANC resolution on this case has been added to the case record file, however, there is a support letter dated October 8, 2013, from John Smeltzer, owner of the neighboring property to the north.

As of this date, the request for party status in opposition, previously submitted on September 30, 2013 by the same John Smeltzer, has not been withdrawn.