

**Burden of Proof
Special Exception Application**

404 Independence Avenue SE

To: **The Office of Zoning**
Government of the District of Columbia
Suite 210 South
441 4th Street, NW
Washington DC 20001

From: **Aung Hla and Myint Myint San**
Owner/Applicants
404 Independence Avenue SE
Washington, DC 20003

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18641

EXHIBIT NO. 5

Date: July 29, 2013

Subject : **BZA Application for an Addition at 404 Independence Avenue SE**
(Square 818, Lot 807)

Aung Hla and Myint Myint San, owners and residents of 404 Independence Avenue SE, hereby apply for a special exception to build a two-story rear addition on the rear of their existing semi-detached row dwelling. The aspects of the proposed project that fall outside the current zoning regulation are as follows:

The existing lot coverage is 934.6 SF (55.2%), which is 15.2% over the allowed lot occupancy for a semi-detached row dwelling in the R-4 zoning district (11 DCMR Section 403.2). The proposed construction will increase the lot coverage to 1185.8 SF (70.0%), which is 30% over the allowed lot coverage. Additionally, the existing house has a non-conforming side setback that is 2.3' wide (11 DCMR Section 405.9), which will be converted into a non-conforming closed court with the proposed addition (11 DCMR Section 406.1).

Additionally, the existing property does not conform to 11 DCMR 2001.3 (addition to a non-conforming structure).

I. Summary:

- A.** This special exception qualifies under 11 DCMR Section 223 because the lot occupancy does not exceed 70% (11 DCMR 223.3), and the addition will not have a substantially adverse affect on the use or enjoyment of any abutting or adjacent dwelling or property (11 DCMR 223.2).
- B.** The proposed two-story addition will not extend past the adjacent structure at 406 Independence Avenue SE.
- C.** The proposed two-story addition will eliminate an existing non-conforming side yard which will be converted into an open court.

II. Bases for Grant of Special Exception

Section 223 provides relief based on satisfying specific criteria under which additions to single-family dwellings may be permitted with a residential district. Those criteria are addressed separately below:

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223.1 An addition to a one-family dwelling or flat in those Residence Districts where a flat is permitted that does not comply with all of the applicable area requirements of sections 401, 403, 404, 405, 406 and 2001.3 shall be permitted as a special exception if approved by the Board of Zoning Adjustment under section 3104, subject to the provisions of this section.

The proposed addition will be on the rear (north facing side) of the existing building. The existing structure has a lot coverage of 55.2 percent, which will be increased to 70 percent with the proposed addition. This is 30 percentage points over the matter-of-right lot occupancy allowed in the R-4 district for a semi-detached dwelling, but is below the 70% allowed by Section 223.3 as a special exception.

223.2 The addition 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.

402 Independence Avenue SE

402 Independence Avenue is a three story single family dwelling that lies immediately to the west of the property at 404 Independence Avenue SE. The proposed addition at 404 Independence Avenue SE will extend past the existing structure at 402 Independence Avenue by approximately 23'. However the proposed addition will only be 2'-5" beyond the existing rear structure of 404 Independence that is to be demolished. As there are existing structures in the rear of the house, the additional square footage will minimally impact 402 Independence Avenue.

Additionally, the residence at 402 Independence is approximately 5' taller than 404 Independence. The height of 404 Independence will not increase with the proposed addition.

The proposed addition will not have an undue impact on the air and light enjoyed by 402 Independence Avenue.

406 Independence Avenue SE

406 Independence Avenue is a three story multi-unit apartment building that lies immediately to the east of the property at 404 Independence Avenue SE. The proposed addition at 404 Independence Avenue SE will not extend past the existing structure at 406 Independence Avenue. The rear of 406 Independence Avenue sits approximately 25'-3" beyond the rear of the existing structure at 404 Independence, and it will sit 22'-10" beyond the rear of the proposed addition.

The windows on 406 Independence are on a setback which is approximately 7'-10" from the shared property line.

The proposed addition will not have an undue impact on the air and light enjoyed by 406 Independence Avenue.

Neighbors to the North of 404 Independence Avenue SE

The proposed addition at 404 Independence Avenue SE will only extend 2'-5" beyond the existing two story structure, but it will be 7'-7" wider than the existing structure. Thus the rear yard will only be impacted by the additional 2'-5" of depth. The majority of the rear yard will remain unobstructed; the remaining rear yard setback will be 15.8'-41.2'. There is no public alley behind the property. Thus, the proposed addition at 404 Independence Avenue SE will have minimal impact on the neighbors to the north.

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

402 Independence Avenue SE

402 Independence Avenue is a three story single family dwelling that lies immediately to the west of the property at 404 Independence Avenue SE. The proposed addition at 404 Independence Avenue SE will extend past the existing structure at 402 Independence Avenue by approximately 23'. However the proposed addition will only be 2'-5" beyond the existing rear structure of 404 Independence that is to be demolished. There will be no windows along the west property line as this will be a fire rated wall. Proposed windows will be north facing, allowing only limited views into the rear yard of 402 Independence. Thus there will be no decrease in privacy enjoyed by the residents of 402 Independence Avenue.

406 Independence Avenue SE

406 Independence Avenue is a three story multi-unit apartment building that lies immediately to the east of the property at 404 Independence Avenue SE. The proposed addition at 404 Independence Avenue SE will not extend past the existing structure at 406 Independence Avenue. The rear of 406 Independence Avenue sits approximately 25'-3" beyond the rear of the existing structure at 404 Independence, and it will sit 22'-10" beyond the rear of the proposed addition.

The windows on 406 Independence are on a setback which is approximately 7'-10" from the shared property line. There will be no windows on the proposed addition that face 406 Independence Avenue along the property line, as the wall will be fire-rated. The windows in the proposed court created by the addition will be facing the wall of 406 Independence Avenue that is along the property line and has no windows. Thus there will be no decrease in privacy enjoyed by the residents of 406 Independence Avenue

Neighbors to the North of 712 A Street SE

The proposed addition at 404 Independence Avenue SE will only extend 2'-5" beyond the existing two story structure, but it will be 7'-7" wider than the existing structure. Thus the rear yard will only be impacted by the additional 2'-5" of depth. The majority of the rear yard will remain unobstructed; the remaining rear yard setback will be 15.8'-41.2'. There is no public alley behind the property. Thus, the proposed addition at 404 Independence Avenue SE will have minimal impact on the neighbors to the north.

Because of the modest size and massing of the addition relative to the existing structure, there will be minimal impact on the privacy of use and enjoyment enjoyed by the neighbors to the north.

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

There is no alley access to the rear of the property, thus the addition will not be visible from the rear. There may be slight visibility from the front of the house through the narrow side yard, but it will have no impact on the character, scale, or pattern of the houses on the block. The addition is modest in size and extends only 2'-5" past the existing house. The proposed addition will be constructed with high quality, historically appropriate materials.

(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

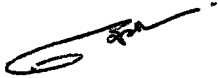
and section drawings sufficient to represent the relationship of the proposed addition to adjacent buildings and views from public ways.

Along with this application, we have included the following items:

- a) Photos of the existing house and surroundings;
- b) Signatures of support from neighbors for a rear addition;
- c) Plan and elevation drawings of proposed addition, including a site plan showing the relationship of the proposed addition to adjacent buildings.
- d) Official Plat from the DC Office of the Surveyor.

If you require any further clarification or have any questions regarding the application, we, as well as our authorized agent Jennifer Fowler, A.I.A., are available at any time to discuss them with you.

Thank you,



Aung Hla
Owner/Applicant



Myint Myint San
Owner/Applicant