

BOARD OF ZONING ADJUSTMENT
SPECIAL EXCEPTION APPLICATION - § 223
APPLICANT'S STATEMENT

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Robert Rubin (Applicant)
3704 Military Road, NW; Square 1873, Lot 41
Expedited Review Pursuant to 11 DCMR § 3118

I. Introduction.

Robert Rubin (the "Applicant") is the owner and occupant of the property and improvements located at 3704 Military Road, NW, Square 1873, Lot 41 (the "Property" or the "Subject Property").

The improvements include a three story one-family detached dwelling (the "House"). The Applicant hereby requests special exception relief pursuant to 11 DCMR § 223 to construct an addition to the House (the "Addition") which will consist of a two-story addition which extends the building an additional 3.75 feet toward the rear of the property, thereby encroaching slightly into the required rear yard. The Applicant is requesting § 223 special exception relief from the requirements § 404 relating to rear yard setback requirements.

The Applicant is requesting an expedited review of this request pursuant to 11 DCMR § 3118.

II. Description of the Property and the Proposed Additions.

The Property is located at 3704 Military Road, NW (Square 1873, Lot 41) in the R-1-B zone district. It is mid-block between Connecticut Avenue and Chevy Chase Parkway. The Property is rectangular in shape and has a land area of 4,500 square feet. The House is a detached structure with a 5-foot side yard on the west side of the House, and a 15-foot side yard on the east side of the House. The current lot occupancy of the Property is approximately thirty-two percent (32%) and the proposed lot occupancy with the addition will be thirty-six percent (36%). There are one-family dwellings on each side of the Property. The proposed addition will not decrease the House's existing side yards and will extend beyond the current rear line of the house by 3.75 feet. Because the minor nature of the addition and the existing side yards, the addition is not likely to negatively impact these two adjacent properties.

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III. Expedited Relief Requested.

The addition will extend 3.75 feet into the required rear yard, for which this relief is requested. The Application safely satisfies the requirements for such special exception relief, as discussed below.

IV. The Application Satisfies Special Exception Requirements of Sections 3104.1 and 223.

A. Overview. Pursuant to Section 3104.1 of the Zoning Regulations, the Board is authorized to grant special exception relief where, in the judgment of the Board, the special exception 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 property, subject also, in this case, to the specific requirements for relief under § 223 of the Zoning Regulations.

In reviewing applications for a special exception under the Zoning Regulations, the Board's discretion is limited to determining whether the proposed exception satisfies the relevant zoning requirements. If the prerequisites are satisfied, the Board ordinarily must grant the application. See, e.g., *Nat'l Cathedral Neighborhood Ass'n. v. D.C. Board of Zoning Adjustment*, 753 A.2d 984, 986 (D.C. 2000).

B. Requirements of Section 3104.1.

The granting of a special exception in this case "*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 property...*". (11 DCMR § 3104.1.)

The proposed addition is a 3.75 foot extension of the existing House, and otherwise stays within the current side yard widths for this House. Because the addition is very small in size, and because the lot occupancy will still be well under forty percent (40%), granting this 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 property.

C. Requirements of Section 223.

The proposal in this application satisfies the requirements of Sections 223, as follows.

Section 223.2 *"The addition or accessory structure shall not have a substantially adverse affect on the use of 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."*

The Addition will not have a substantially adverse effect on the use or enjoyment of neighboring properties. As noted above, the Addition is very minor in nature and will have no impact at all on any neighbors' use or enjoyment of their property. On the east side of the House, there will be a 15-foot side yard, and the adjacent house is approximately 25-feet from the area of the addition. On the west side of the House, the addition keeps the existing 5-foot side yard and extends into the rear yard just 3.75 feet.

The Addition is small in nature, and will not substantially visually intrude upon the character, scale and pattern of houses along the Military Road street frontage.

Section 223.3 *"The lot occupancy of all new and existing structures on the lot shall not exceed fifty percent (50%) in the R-1 ... District[s]..."*

The proposed lot occupancy is only thirty-six percent (36%), well below the matter-of-right amount of forty percent (40%) lot occupancy.

V. Conclusion.

For the reasons stated above, this application meets the requirements for special exception approval by the Board, and the Applicant respectfully requests that the Board grant the requested relief pursuant to the expedited review process under § 3118.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Martin P. Sullivan", is written over a horizontal line.

Martin P. Sullivan, Esq.
Sullivan & Barros, LLP

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