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2014 MAR 21 PM 4:05

6 March 2014

Mr. Lloyd Jordan
Chairman, Board of Zoning Adjustment
441 4th Street, NW
Suite 200 South
Washington, DC 20001

Re: Zoning Self-Certification for 103 4th Street, NE
STATEMENT of OWNER'S BURDEN OF PROOF

Dear Mr Jordan;

This request for a Special Exception is for an addition to an existing single family row dwelling in the R4 Zone at the above address. The row dwelling will remain a single family dwelling.

The existing building was built before the Zoning Act of 1958 and should not be expected to fully comply with those regulations. The current owner of the property has owned the residence since April, 1999, and purchased the property with the current non-conformances.

Under SS.223 and 3104.1, we are requesting a Special Exception to the following provisions in Chapter 4 of the Zoning Regulations:

1. Section 401.Minimum Lot Dimensions (401.3 Lot Area)
2. Section 403 Maximum Percentage of Lot Occupancy
3. Section 406 Minimum Dimensions of a Court

Section 401 – Minimum Lot Dimensions (401.3 Lot Area).

The existing 1460 SF lot was subdivided in the 19th Century and is below the current requirement of 1800 SF. The proposed addition does not change the lot size.

Section 403 – Maximum Percentage of Lot Occupancy

The existing row dwelling has a 68.8% lot occupancy which includes as building area, an adjoining party wall that straddles the property line, and the resulting Open court, 4.51' wide. An additional Court, 4.97' wide is considered as if were 5.0' by virtue of being granted "minor flexibility" by the Zoning Administrator (see attached correspondence by Matthew LeGrant). Therefore this area is not considered as "building area" and not included in lot occupancy.

The proposed addition creates a Lot Occupancy of 69.4%, within the allowable permitted by the provisions of Paragraph.223.3 for a Special Exception.

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18761
EXHIBIT NO. 6

Section 406 – Minimum Dimensions of a Court

The current zoning regulations require Open Courts to be 8'8" wide based on the 26' height of the current building.

- A. Next to the adjoining row dwelling at 101 4th Street, NE, the court is 4.51' wide by virtue of that dwelling's wall straddling the property line, as a party wall.
- B. Beyond the adjoining row dwelling, where there is no party wall, the Open Court is bordered on one side by the property line, itself and measures 4.97' wide.

The proposed addition would not extend or increase these non-conformities. Both non-compliant areas of Open Court would remain the same length, height, and width.

Section 223 a Special Exception is subject to the following provisions:

1. The light and air available to neighboring properties shall not be unduly affected.

The addition as planned will be substantially the same size as the existing partially enclosed rear porch. It will not increase existing non-conformities on the site. The rear wall of the addition will be located approximately 10" back from the rear face of the adjoining property's enclosed rear porch in order to maintain the required 20' rear yard setback. And it will be substantially hidden from view by existing tall fences and party-walls without fenestration. Therefore, it will not unduly affect the light and air available to neighboring properties.

2. The privacy of use and enjoyment of neighboring properties shall not be unduly compromised

The addition will be substantially the same size as the existing partially enclosed rear porch. It will not increase existing non-conformities on the site. The rear wall of the addition will be located approximately 10" back from the rear face of the adjoining property's enclosed rear porch in order to maintain the required 20' rear yard setback. And it will be substantially hidden from view by existing tall fences and party-walls without fenestration. Therefore, the privacy and use and enjoyment of neighboring properties will not unduly be compromised.

3. The addition, 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.

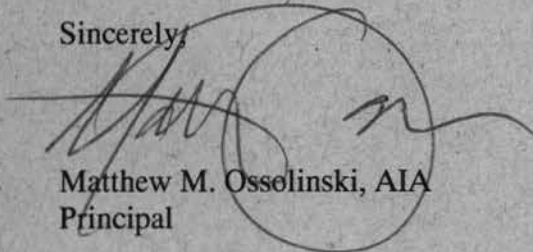
The photos submitted as part of this request indicate an existing addition that is largely hidden from public view. The existing addition typifies the character, scale and pattern of houses in the neighborhood. The proposed addition will be substantially the same size and geometry and character as the existing and will remain virtually as hidden as the existing. Therefore it will not substantially intrude upon the character, scale and pattern of houses along the subject street frontage.

4. The applicant shall use graphical representations sufficient to represent the relationship of the proposed addition to adjacent buildings and views from public ways.

The drawings and photographs submitted as part of this application will sufficiently indicate the proposed addition and its relationship to adjacent buildings and views from public ways.

This request is respectfully submitted so that the Owner of the row dwelling can replace an existing, poorly built addition, better incorporate the addition into their existing living area, and have more convenient visual and abulatory access to their rear yard.

Sincerely,



Matthew M. Ossolinski, AIA
Principal

Encl: Correspondence from Zoning Administrator dated 2/25/14

Matthew Ossolinski

From: LeGrant, Matt (DCRA) <matthew.legrant@dc.gov>
Sent: Tuesday, February 25, 2014 9:52 AM
To: Matthew Ossolinski
Subject: RE: 3/8" short of a special exception

Importance: High

Matthew Ossolinski:

My apologies for not carefully reviewing the attachment. You are correct that this is a case of an open court [not a side yard] that is less than 5 feet in width under Section 406.1. Nevertheless, I am allowed to also grant [under Section 407.1] a deviation of 10% of a required minimum open court width. Since the deviation is less than 1 inch [3/8"] it does qualify and I will grant minor flex in this case.

You may cite this communication as a basis of my decision when the building permit is subject to my office's review.

Best Regards,

Matthew Le Grant

Zoning Administrator
Dept of Consumer and Regulatory Affairs
Government of the District of Columbia
1100 4th St SW - Room 3100
Washington, DC 20024
Phone: 202 442-4652
Email: matt.legrant@dc.gov
Web: <http://dcra.dc.gov/service/zoning-dcra>

From: Matthew Ossolinski [mailto:mossolinski@ossolinskiarchitects.com]
Sent: Tuesday, February 25, 2014 9:39 AM
To: LeGrant, Matt (DCRA)
Subject: RE: 3/8" short of a special exception

Matt
Thank you for your quick response and for granting the minor flex.
To avoid a technicality at the permit office, the issue is one of a Court less than 5' wide governed by Section 406 and the definition of Building Area, not a side yard. (See my original email below and the attached survey)
Could you please confirm you will grant the same minor flexibility in this case.
Thank you
Matt

Matthew Ossolinski, AIA, LEED® AP-BD&C

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From: LeGrant, Matt (DCRA) [mailto:matthew.legrant@dc.gov]
Sent: Tuesday, February 25, 2014 9:18 AM
To: Matthew Ossolinski
Subject: RE: 3/8" short of a special exception

Matthew Ossolinski:

Normally, in the cases of existing non-conforming side yards of less than five feet in width [which is this case], I look to Section 405.8 as controlling. The Zoning Regulations [specifically Section 407.1, not Section 2522 which applies to non-residential zones] allows me to grant "minor flexibility" in R- zones in some cases, they limit my ability to grant not more (in the case of side yards) to a maximum deviation of 10% of the required minimum side yard width. Since the deviation is less than 1 inch [3/8"] I will grant minor flex in this case. I do not see any value of having this case go to the BZA for such a small quantity of relief.

You may cite this communication as a basis of my decision when the building permit is subject to my office's review.

Best Regards,

Matthew Le Grant

Zoning Administrator
Dept of Consumer and Regulatory Affairs
Government of the District of Columbia
1100 4th St SW - Room 3100
Washington, DC 20024
Phone: 202 442-4652
Email: matt.legrant@dc.gov
Web: <http://dcra.dc.gov/service/zoning-dcra>

Look out for the homeless this winter. When the actual or forecasted temperature or wind chill is 32 degrees F or below, the District issues a Hypothermia Alert. To request support for persons who are homeless and on the street now, contact the Shelter Hotline at 1-800-535-7252 or 311 or email uposh@upo.org.

From: Matthew Ossolinski [mailto:mossolinski@ossolinskiarchitects.com]
Sent: Monday, February 24, 2014 4:57 PM
To: LeGrant, Matt (DCRA)
Subject: FW: 3/8" short of a special exception

Hi Matthew-

Per my voicemail just now, this was sent to an old email address of yours-
I am resending here. Thanks

Matthew Ossolinski, AIA, LEED® AP-BD&C

Ossolinski Architects, PLLC

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From: Matthew Ossolinski [<mailto:mossolinski@ossolinskiarchitects.com>]

Sent: Thursday, February 20, 2014 2:36 PM

To: 'Matthew.Legrant@dc.gov'

Subject: 3/8" short of a special exception

Hello Matt

I am an architect in DC. (The last time we spoke was about 7 years ago; good to see you are still at the same desk)

We are working on a single family addition in an R-4 zone (Capitol Hill Historic District)

We measured closely against a survey and find a portion of an existing court less than 5'-0", (bordering a fence/property line rather than a party wall) is actually 4'-11 5/8" wide (4.96875'). This is 3/8" short of the 5'-0" threshold required for a Special Exception.

If the fence portion of the court (68.75 SF, or 4.7% of the 1460 SF lot) were considered not in the lot occupancy, we would be within the 70% threshold for a special exception.

Is there a way we can interpret the rules, perhaps using SS 2522 –Minor Flexibility – to allow us to apply for a special exception rather than a variance?

How would I go about requesting or applying for that?

Thank you

Matt

Matthew Ossolinski, AIA, LEED® AP-BD&C

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