

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Arthur Jackson, Development Review Specialist
 Joel Lawson, Associate Director Development Review
DATE: June 3, 2014
SUBJECT: **BZA Case 18774** – request for special exception relief in accordance with § 223 to construct additions to an existing flat in a three-story row dwelling at 2819 13th Street NW

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends **approval** of the special exception relief originally requested pursuant to § 223 from:

- § 403.2 (the proposed 66.5% lot occupancy exceeds the allowable 60%);
- § 406.1 (a nonconforming *open court width* the rear façade would be extended vertically); and
- § 2001.3 (a) and (b)(2) (the dwelling lot occupancy with the additions would not conform and the above-referenced nonconforming characteristic would be extended).

OP supports the following additional relief requested on May 27, 2014:

- § 406.1 (the proposed *closed court area* of 207 square feet is less than the required minimum of 350 square feet).

Relief from § 2500.3 (amount of rear yard covered with accessory building) was also requested by the applicant. However, relief from this section is not permitted by special exception and OP has discussed, instead, with the applicant relief from § 404.1 (rear yard - a minimum of 20 is required, 12 feet is proposed). The applicant has concurred with this, so OP has provided analysis accordingly. If the BZA feels that relief from § 2500.3 is more appropriate or required, OP can provide additional analysis accordingly, at the public hearing.

This property is also slightly nonconforming for lot width.

II. LOCATION AND SITE DESCRIPTION

Address:	2819 13 th Street NW
Legal Description:	Square 2856, Lot 0109
ANC:	1B
Lot Characteristics:	A 17.3 x 150.0-foot (approximately), 2,588 square feet (0.06 acre) interior lot with frontages along 13 th Street NW on the front (western) property boundary and a public alley 10 feet wide on the rear (eastern) boundary. There is also a north-south building restriction line in the front yard a distance of 30 feet from the 13 th Street NW right-of-way.

Zoning:	R-4 – row dwellings and flats are allowed as a matter of right.
Existing Development:	A three-story row dwelling that was converted to a flat in 2007 with covered porches on rear façade at each level and a garage in the rear yard with driveway access to the adjacent public alley. The garage is set back 10 feet from the rear (eastern) property boundary and alley.
Historic District:	None
Adjacent Properties:	Similar three-story row dwellings in the same zone district.
Surrounding Neighborhood Character:	Primarily low-density residential to the north and south, and the parking lot of the Carlos Rosario Public Charter School to the east across the alley.

III. PROJECT DESCRIPTION IN BRIEF

Applicant:	Robert Copyak, owner of record.
Proposal:	<p>To construct a three-story rear addition, rear deck, and a rooftop penthouse and deck onto the existing dwelling and increase the height of the existing rear garage 5.5 feet, from 9.5 to 15 feet.¹ According to DC land records the dwelling was originally constructed in 1905 which means it predates the Zoning Regulations.</p> <p>Existing development onsite exceeds the allowable 60% lot occupancy (60.6%) and the open court at the southern corner of the rear façade is less than the minimum width of 10-feet (3.5 feet). The new construction would extend the nonconforming open-court width to the extended third floor and further <i>increase</i> the nonconforming lot occupancy. The existing lot width of 17.3 feet is also slightly less than the required minimum of 18 feet.</p> <p>As a result, the property owner submitted this zoning relief application.</p>
Relief Sought:	<p>Special exception relief from §§ 401.3, 403.2 and 2001.3, in accordance with § 223.</p> <p>Increasing the height of the one story garage to 15-feet would be consistent with the allowable maximum height of accessory buildings under § 2500.4, and relief from § 401.3 is not required for the nonconforming lot width per § 401.1. The applicant provided the following additional information in response to OP inquiries:</p> <ul style="list-style-type: none"> • <u>Possible fourth story:</u> A more refined fourth-level floor plan and area measurements indicated that the anticipated mechanical equipment, interior stairs and associated interior circulation space would take up 89.3% of the floor area in the proposed rooftop enclosure (refer to Exhibit 1). Based on this information, the enclosure appears to qualify as a mechanical penthouse. • <u>Creating a § 2500.3 nonconformity:</u> Submitted plans indicate that the rear deck addition would extend the dwelling 16-feet closer to the eastern (rear) boundary. The rear garage currently sets back 10-feet from the rear boundary and

¹ Based on additional information provided by the applicant.

	<p>adjacent alley, and approximately 20 feet from this dwelling. The proposed deck construction would result in the garage occupying more than the 33% of the required 20-foot rear yard setback that is allowed under this provision.²</p> <ul style="list-style-type: none"> • <u>Closed court relief:</u> The new deck would also reduce the closed court area between the dwelling and the garage to 207 square feet which is less than the minimum 350 square feet required under § 406.1, making the closed court area nonconforming. <p>A supplement filed on May 27, 2014, amended the original request to include the referenced closed-court and yard-occupancy relief. However, since § 2500.3 is not a provision listed as eligible for special exception relief under § 223, OP suggests relief from § 404.1 (rear yard) in the alternative.³</p> <p>The applicant also explained that the third floor kitchen area shown in the submitted plans would be for the purpose of entertaining and not to create a separate dwelling unit.</p>
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IV. ZONING REQUIREMENTS

R-4 District	Required	Existing	Proposed	Relief?
Height § 400.1 (dwelling)	40 feet, 3 stories	35 feet, 3 stories	37.3 feet, 3 stories	None
Height § 2500.5 (garage)	15 feet, 1 story	9.5 feet, 1 story	15 feet, 1 story	None
Lot Area § 401.1	1,800 sq. ft.	2,588 sq. feet	SAME	None
Lot Width § 401.1	18 feet	16 feet	SAME	None
Lot Occupancy § 403.2	60%	60.6%	66.5%	Yes
Rear Yard § 404.1	20 feet	54.2 feet	42 feet	Yes
Open Court (Width) § 406.1	10 feet	3.5 feet	SAME	Yes
Close Court (Area) § 406.1	350 sq. ft.	350 sq. ft. +	207 sq. ft.	Yes

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.*

Row dwellings and flats are permitted uses in the R-4 district. This proposal requires special exception relief in accordance with § 223 from §§ 403 (lot occupancy), 404 (rear yard), 406

² The current garage setback of 20-feet from the dwelling meets the referenced standard. At the same time this accessory structure occupies 50% of the required rear yard measured from the eastern (rear) boundary. The owner can choose to measure required yards from either the building or the facing property boundary, so the garage set back is currently considered conforming. However, neither measurement would conform to § 2500.3 as a result of the proposed deck addition.

³ While § 2500.3 is not eligible for special exception relief pursuant to § 223, special exception relief from § 404.1 to reduce the required rear yard from 20 to 12 feet would eliminate this nonconformity by placing the existing garage beyond the required yard.

(open court width and closed court area) and 2001.3 (a) and (b)(2) (nonconforming lot occupancy and extension of a nonconforming characteristic).

§ 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 proposed rear and roof additions generally would not extend beyond the rear façades of the neighboring dwellings. Due to the east-west orientation of the lot, addition shade and shadows would primarily fall on the subject property and in public space. It, therefore, does not appear that the addition would unduly impact the light and air available to neighboring properties.

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

The additions generally would not extend beyond the neighboring properties. Addition windows would face toward the public charter school parking lot and building to the east, and the side wall of the neighboring property to the south which does not include any windows. The privacy of use and enjoyment of neighboring properties should, therefore, 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; ...*

The proposed mixture of exterior building materials would be consistent with nearby row dwellings. The application also stated that new brickwork would be painted to match the existing bricks. The penthouse would set back over 18 feet behind the front façade and the proposed increase in the garage height should have minimum visual impact from the adjacent alley.

Under these circumstances, the proposed changes should not substantially intrude upon the character, scale and pattern of structures along the adjacent street and alley.

(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 submission provided sufficient graphic information for this review.

§ 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.*

Figure 1



The proposed 66.5% lot occupancy is less than the maximum 70% allowed in this zone district 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.*

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.*

Based on the referenced submissions and applicant responses, no nonconforming use would be established under this proposal.

VI. COMMENTS FROM OTHER DISTRICT AGENCIES

Comments from other District agencies have not been received at the time.

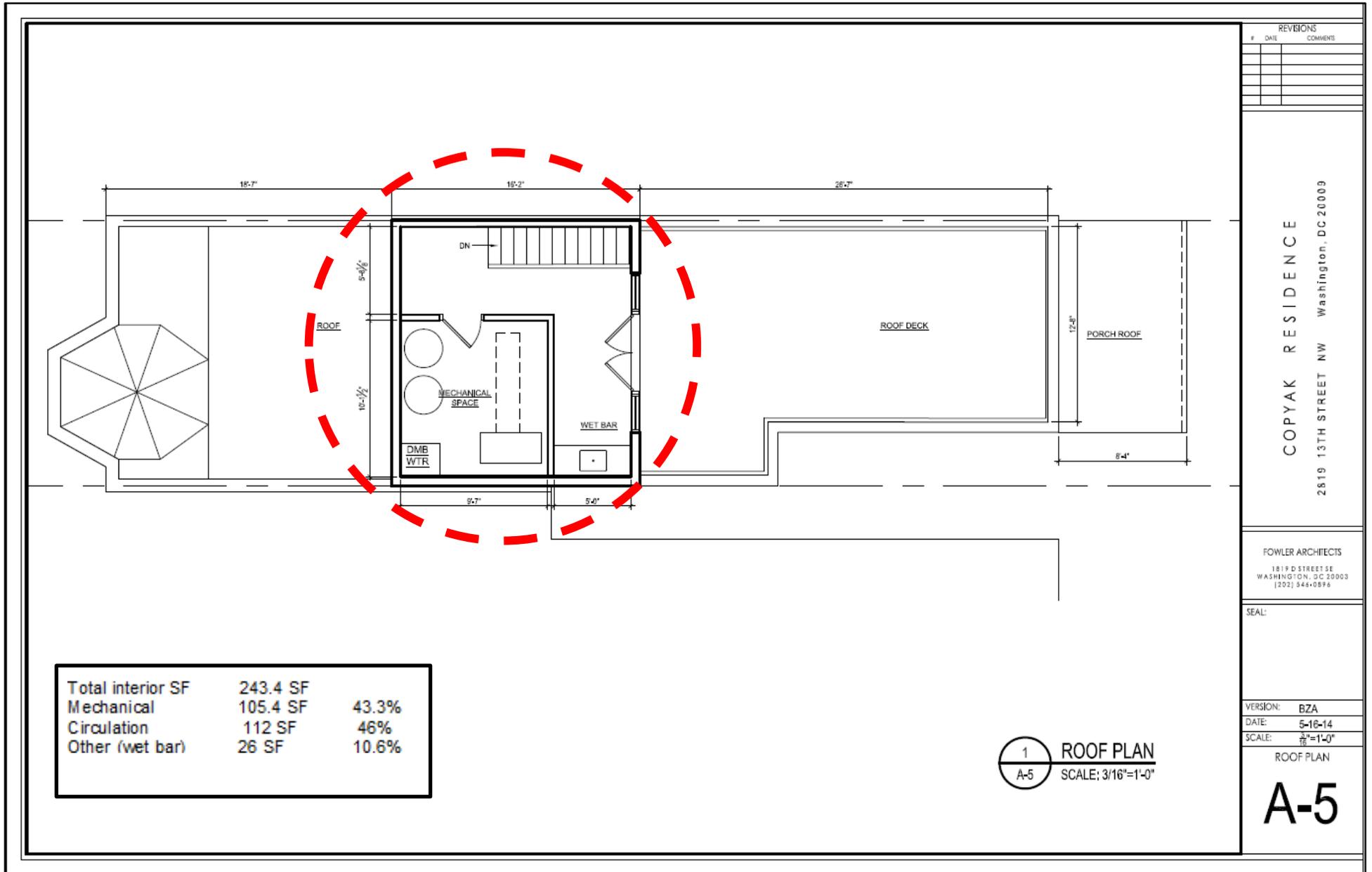
VII. COMMUNITY COMMENTS

To date, no resolution on this case from Advisory Neighborhood Commission (ANC) 1B has been added to the case record file.

Letters dated April 16, 2014, and April 25, 2014, are in the file from the owners of the neighboring properties at 2817 and 2821 13th Street NW that both recommend application approval.

Figure 2





REVISIONS		
#	DATE	COMMENTS

COPYAK RESIDENCE
2619 13TH STREET NW Washington, DC 20009

FWLER ARCHITECTS
1819 D STREET SE
WASHINGTON, DC 20003
(202) 544-0896

SEAL:

VERSION: BZA
DATE: 5-16-14
SCALE: 3/16"=1'-0"

ROOF PLAN

A-5