

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

Janet Katowitz (Applicant)
1425 North Carolina Avenue, NE; Square 1056, Lot 94

I. Introduction.

Janet Katowitz (the "Applicant") is the owner and occupant of the property and improvements located at 1425 North Carolina Avenue, NE, Square 1056, Lot 94 (the "Property" or the "Subject Property"). The building on the Property is a one-family row dwelling (the "Building"). The Applicant is requesting special exception relief pursuant to 11 DCMR § 223 to construct a deck attached to the rear of the Building. The deck will be a two-tiered deck, only one tier of which is above four (4) feet in height.

Because the existing lot occupancy on the Property (62%) exceeds the maximum permitted lot occupancy of sixty percent (60%), and because the deck addition will extend the lot occupancy to seventy percent (70%), the Applicant is requesting the § 223 special exception relief from the requirements §2001.3 (which prohibits additions to structures which are currently nonconforming as to lot occupancy) and §403.2 (lot occupancy). The rear deck would also not comply with the minimum required rear yard setback of twenty (20) feet, so the § 223 relief is also requested from § 404.1 (rear yard).

II. Description of the Property and the Proposed Addition.

The Property is located in the R-4 zone district. The Property is rectangular in shape and has a land area of 2,000 square feet. There is a 10-foot-wide alley at the rear of the Property. The current lot occupancy of the Property is 62%. The area is characterized by small, shallow lot sizes, and most of the nearby properties exceed 60% lot occupancy. See a map of the Property attached hereto as Exhibit A.

III. 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 deck addition is a two-tiered deck. The higher tier is at the main level of the Building (a height of about 6'4”), and it will provide an egress from the rear door of the Building which currently does not exist. This higher tier extends a distance of only four feet from the Building, for most of its width, and extends a few feet further out in one section. The lower tier is at a height of only 3'11” and is a permitted structure in any required yard, pursuant to 11 DCMR § 2503, which is not included in the lot occupancy calculation. This addition is very modest in nature, has no impact on light and air of neighbors, nor does it materially impact the privacy of use or enjoyment of adjacent neighbors.

For this reason, the addition 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 proposed addition will not have a substantially adverse effect on the use or enjoyment of neighboring properties. It will have no impact on neighboring light and air, as there are already boundary fences existing on either side of the Property. The proposed addition will likewise have no material impact on the privacy of neighboring properties.

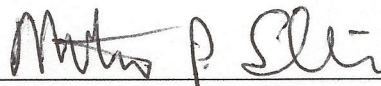
Section 223.3 *"The lot occupancy of all new and existing structures on the lot shall not exceed seventy percent (70%) in the R-3 District..."*

The proposed lot occupancy is seventy percent (70%).

IV. 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 § 223.

Respectfully submitted,



Martin P. Sullivan, Esq.
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Exhibit A