

**Detailed Statement Explaining How Application Meets the Specific Tests for a Special Exception from
11 DCMR 405.8**

Introduction

The BZA may grant a special exception to section 405.8 so that the Applicant can construct the proposed addition. See 11 DCMR 223.1 (2007), 3104.1 (2003). As discussed below, Applicant's request meets the test for a special exception set forth in the D.C. Municipal Regulations.

Rule

Section 223.1 provides that an addition to a one-family dwelling or flat in an R-1-B District shall be permitted as a special exception even though the addition or accessory structure does not comply with all of the requirements of section 405 if approved by the BZA under section 3104, subject to section 223.2. See 11 DCMR 223.1 (2007). Section 3104.1 and section 223.2 authorize the BZA to grant special exceptions for additions to a one-family dwelling or flat where, in the judgment of the Board:

- I. The special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps (3104.1)
- II. The special exceptions will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps (3104.1)
- III. The addition or accessory structure shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property (223.2); in particular:
 - a. The light and air available to neighboring properties shall not be unduly affected (223.2(a);
 - b. The privacy of use and enjoyment of neighboring properties shall not be unduly compromised (223.2(b);
 - 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 (223.2(c)); and 11 DCMR 3104.1 (2013), 223.2 (2007).

Applicant discusses each of these elements below.¹

Analysis

The requested special exception from section 405.8 and the proposed addition meet the requirements set forth in section 3104.1 and section 223.2. In particular:

- I. The special exception will be in harmony with the general purpose and intent of the zoning regulations and map. 11 DCMR 3104.1 (2013).

¹ The statements herein are supported by Exhibit 5 (plat), Exhibit 6 (plans), and Exhibit 9 (photographs) to the present application for special exception. See 11 DCMR 223.2 (d).

Section 200.1 provides:

The R-1 District is designed to protect quiet residential areas now developed with one-family detached dwellings and adjoining vacant areas likely to be developed for those purposes.

The provisions of this chapter are intended to stabilize the residential areas and to promote a suitable environment for family life. For that reason, only a few additional and compatible uses shall be permitted.

11 DCMR 200.1 (2000)

Here, the requested special exception will not impair the zoning regulations and map because the proposed special exception will not change the use of the property from its present use as a one-family detached dwelling. The proposed special exception will allow for the construction of a basement level (one story) addition on the back of the house which will promote the “suitable environment for family life” of the Applicant because she will be able to better enjoy the property with her family and friends by providing a better connection from the inside of the home to the exterior, allowing her to enjoy the backyard more comfortably, and promote a friendly neighborhood environment.

- II. The special exceptions will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps (3104.1);

The special exception will not affect adversely the use of neighboring property because the proposed addition is one story located at the basement level at the rear of the house, designed in such a way to step the mass of the house down to the site respectfully. This element is addressed in more detail below with respect to the next element and sub-elements.

- III. The addition or accessory structure shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property. 11 DCMR 223.2 (2007).

- a. *The light and air available to neighboring properties shall not be unduly affected.*

The light and air available to neighboring properties at 3425 Macomb Street and 3401 Macomb Street will not be adversely affected by construction of the proposed addition. The proposed basement addition adheres to the current side yard setbacks of the existing home. The proposed addition will be screened by an existing privacy fence between the property and 3401 Macomb Street. The addition is on the basement level and the finished floor will be approximately 2’-6” below the playground grade at 3425 Macomb Street and will be screened by an existing chain link fence and service building for the playground.

- b. *The privacy of use and enjoyment of neighboring properties shall not be unduly compromised.*

The privacy of use and enjoyment of neighboring properties will not be unduly compromised because the proposed addition will not provide any views into the neighboring properties that are not generally apparent from the house’s existing rear porch and the windows in the addition will face the rear of the property.

- c. *The structure, together with the original building as viewed from the alley and any other public way does not substantially visually intrude upon the character, scale and pattern of houses along the subject street frontage.*

The proposed addition is in keeping with the character of the neighboring houses and the public playground. Many houses in the neighborhood have additions extending from the rear of the house, and many houses in the neighborhood have a five foot side yard, as the existing porch and addition have. Applicant's architect has been careful to design the addition to be subordinate to the main dwelling and to gracefully engage with the sloping back yard.

Conclusion

"In evaluating requests for special exceptions, the Board is limited to a determination whether the exception sought meets the requirements of the particular regulation on which the application is based." *French v. D.C. BZA*, 658 A.2d 1023, 1032 (D.C. 1995) (citation and quotation omitted). "The applicant has the burden of showing that the proposal complies with the regulation; but once that showing has been made, the Board must grant the application." *Id.* (citation and quotation omitted). Applicant has demonstrated that pursuant to section 3104.1 and section 223.2, the special exception from section 405.8 are in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps; the special exception will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and the proposed addition will not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property. Therefore, the BZA should grant Applicant's request for special exception from section 405.8 so that Applicant can construct her proposed addition.