

3203 38th Street, NW
Washington, DC 20016
September 4, 2014

Board of Zoning Adjustment
441 4th Street, NW
Room 220
Washington, DC 20001

Subject: 3203 38th Street exception 220.10 for accessory apartment, Responses to Burden of proof:

I submit the following responses related to the provisions stipulated in subsection 202.10 and § 3104 for permitting an accessory apartment.

202.10 states that an accessory apartment may be added within an existing *one-family detached dwelling* if approved by the BZA, as a special exception under § 3104, under the following provisions:

- (a) The lot shall have a minimum lot area of 5,000 ft.² for R-1-B.

Response: *The lot size of the house is approximately 4,250. The applicant requests a waiver of this requirement as per section (i) of the code (see below).*

- (b) The house shall have at least two thousand square feet (2,000 ft.²) of gross floor area, exclusive of garage space;

Response: *The house has approximately 3,050 sq. ft. of gross floor area, exclusive of garage space and attic space: approximately 2,250 completely above grade (above grade living area), and 800 partially below grade (walk out basement). The apartment will be located in the partially below grade floor of the house.*

- (c) The accessory apartment unit may not occupy more than twenty-five percent (25%) of the gross floor area of the house;

Response: *The apartment occupies approximately 600 square feet, or about 20% of the gross living area of the house.*

- (d) The new apartment may be created only through internal conversion of the house, without any additional lot occupancy or gross floor area; garage space may not be converted;

Response: *The apartment is pre-existing my purchase of the house, and was created through internal conversion of the house, without any additional lot occupancy or garage space conversion.*

- (e) If an additional entrance to the house is created, it shall not be located on a wall of the house that faces a street;

Response: *No additional entrance to the house will be created, and the entrance to the apartment does not face the street. The principal dwelling has a West-facing entrance on 38th Street, NW. The apartment has an exterior entrance through a North-facing side door, and facing the driveway of the principal residence.*

- (f) Either the principal dwelling or accessory apartment unit must be owner-occupied;

Response: *The principal dwelling is owner-occupied.*

- (g) The aggregate number of persons that may occupy the house, including the principal dwelling and the accessory apartment combined, shall not exceed six (6);

Response: *The aggregate number of persons who will occupy the house will not exceed six (6). Two persons reside in the principal dwelling (the owner and her son), and the accessory apartment occupancy will not exceed two (2).*

- (h) An accessory apartment may not be added where a home occupation is already located on the premises; and

Response: *The accessory apartment is not occupied.*

- (i) The Board may modify or waive not more than two (2) of the requirements specified in paragraphs (a) through (h) of this subsection; provided, that the following occurs:

- (1) The owner-occupancy requirement of paragraph (f) shall not be waived;
- (2) Any modification(s) approved shall not conflict with the intent of this section to maintain a single-family residential appearance and character in the R-1, R-2, and R-3 Districts; and

- (3) Any request to modify more than two (2) of the requirements of this subsection shall be deemed a request for a use variance.

Response: *The applicant requests 2 waivers from the BZA, while meeting the mandatory provisions stipulated that (f) need not be waived, and the modifications will not conflict with the maintenance of a single-family residential appearance and character of the neighborhood:*

First, with respect to the total lot size, the lot size of the house in question is 4,250, making it 15% smaller than the stipulated lot size for apartment conversions for houses in R-1- zones (but greater than the 4,000 sq. ft. stipulated for R-2 zoned houses) . Despite the slightly smaller lot size, the presence of the accessory apartment is not expected to infringe in any way with the appearance and/or character of the R-1 neighborhood. The house has a double-wide driveway which permits two cars side by side in the driveway. Any renter of the apartment will be given a parking space in that driveway (next to the owner's car), so street parking will not be affected by the apartment presence.

Second, the applicant requests a waiver from the stipulation that the accessory apartment be created within an existing one-family detached dwelling. The applicant's house is a one family semi-detached house, adjoined directly with 3717 Woodley Road. However, as the semi-detached building sits on a corner, the two connected dwellings (3203 38th Street and 3717 Woodley Road) have different street entrances (with the entrance to 3717 Woodley on Woodley Road, and the entrance to 3203 38th Street on 38th Street). The entrance to the proposed apartment for 3203 38th Street sits on the North side of the house, facing the principal dwelling's driveway (and looking toward Macomb Street), while the dwelling 3717 Woodley Road is to the south (facing the opposite direction). Thus, there would be no encroachment into the space of the shared semi-detached dwelling (neither the entrance to the apartment nor any of the windows). Moreover, the owners of the affected semi-detached companion house have expressly written their non-objection to the accessory apartment, as have the other abutting neighbors closest to the apartment entrance.