

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

Farhad and Shahrzad Jalinous (Applicant)
2804 34th Place, NW; Square 1941, Lot 46

I. Introduction.

Farhad and Shahrzad Jalinous (collectively, the "Applicant") are the owners and occupants of the property and improvements located at 2804 34th Place, NW, Square 1941, Lot 46 (the "Property" or the "Subject Property").

The improvements include a two-story, one-family detached dwelling (the "House") and an attached garage (the "Garage"). Because the Garage is attached to the House, the House and Garage together constitute a single building and the principal structure on the Property. As such, the Garage is not an accessory structure and is therefore subject to the rear yard restrictions for the R-1-B zone district. The Garage is approximately 4.4 feet from the rear property line, making the Garage nonconforming as to rear yard setback requirements.

The Applicant wishes to widen the Garage in order to comfortably fit two cars therein. The proposed addition (the "Addition") would consist of a 7-foot wide one-story addition to the south side of the Garage, which is adjacent to the large open rear yard on the Property, as well as the 15-foot wide alley to the west. The nonconforming aspect of the Garage would not be increased, but it would be extended the additional 7 feet. The Applicant therefore requests special exception relief pursuant to § 223, from the rear yard requirements of § 404.

II. Description of the Property and the Proposed Additions.

The Property is located at 2804 34th Place, NW, in the R-1-B zone district, at the northwest corner of 34th Place and Fulton Street. The front of the house faces east, on 34th Place. Fulton Street is to the south, and a fifteen foot alley is to the west of the Property. The House is a two-story detached structure with a 4.9-foot side yard on the north side of the House, and a very large open yard to the south ranging approximately from 50 feet to 75 feet. The current lot occupancy of the Property is approximately twenty-four percent (24%) and the proposed lot occupancy with the Addition will be twenty-five percent (25%). There is a one-family dwelling adjacent to the north, at 2804 34th Place, NW. The rear yard setback, in the area of the Garage, is

currently 4.43 feet. The proposed addition will extend this setback into the rear yard at the same distance. So the rear yard will not be decreased, but the existing nonconformity will be extended an additional seven feet to the south. The proposed addition will be on the side of the Garage facing the large side yard to the south, and the fifteen foot wide alley to the west. Because the addition is limited to this location, and is small in scope, it will have no impact on any neighboring properties.

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 addition is a one-story 7-foot wide addition to the existing Garage in an area that is removed from any neighboring properties. The Addition is very small, and the resulting lot occupancy will be approximately twenty-five (25%), well below the forty percent (40%) permitted lot occupancy. Therefore, granting this relief 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. As noted above, the Addition is very small, is limited to one story, and does not impact any neighboring properties. The addition faces a large open yard on the Subject Property and the fifteen foot wide alley.

The proposed addition is small in nature, and will not visually intrude upon the character, scale and pattern of houses along either Fulton Street or 34th Place.

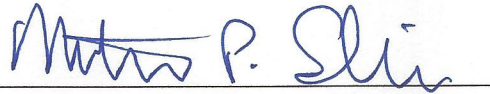
Section 223.3 *"The lot occupancy of all new and existing structures on the lot shall not exceed fifty percent (50%) in the R-1 ... District[s]..."*

The proposed lot occupancy is twenty-five percent (25%), well below fifty percent (50%).

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.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Martin P. Sullivan", is written over a horizontal line.

Martin P. Sullivan, Esq.
Sullivan & Barros, LLP