



**ADVISORY NEIGHBORHOOD COMMISSION 3C**  
GOVERNMENT OF THE DISTRICT OF COLUMBIA

CATHEDRAL HEIGHTS • CLEVELAND PARK  
MASSACHUSETTS AVENUE HEIGHTS  
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04- Vacant; 05- Margaret Siegel; 06-Carl Roller  
07- Victor Silveira; 08-Catherine May; 09-Nancy MacWood

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## **ANC 3C Resolution No. 2014-043**

### **Regarding Request for Special Relief for Exceeding Lot Occupancy and Violating Side Yard Set Back for 2709 36th ST NW**

Regarding BZA Application No. 18886 of Niloufar Hoorazor for a special exception under §223, not meeting the lot occupancy requirements under § 403.2, and the side yard requirements under §405.8, to allow a two-story addition to an existing single family dwelling in the R-1-B District at 2709 36<sup>th</sup> Street, NW.

WHEREAS, the owners of 2709 36<sup>th</sup> Street, NW (Square 1938, Lot 811) applied (BZA # 18886) for a special exception under Section 223 to allow an addition to an existing one-family dwelling; and

WHEREAS, the addition includes expanding the existing house in the rear and the south side, for the full height of the house, which is three stories as viewed from the rear alley;

WHEREAS, applicant maintains construction of the addition has already been substantially completed because the owner's surveyor mistakenly calculated the north side yard width as being five feet, rather than the actual width, which was less than five feet;

WHEREAS, because the north side yard is less than five feet in width, the area of the side yard is included in "building area" in the lot occupancy calculation, and with that area included, the lot occupancy on the property, with the addition, is approximately forty-four percent (44%);

WHEREAS, because the addition results in a footprint that exceeds the maximum permitted lot occupancy of forty percent (40%), owner has requested the above mentioned Section 223 special exception relief to construct the addition;

WHEREAS, the Zoning Regulations provide, in Section 223.2, that "[t]he addition...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; (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.";

WHEREAS, owner, in her presentation before the ANC or in the Application, has presented no graphical representations, plans, photographs, sun studies, or elevation or section drawings which might represent the relationship of the addition to adjacent buildings and views from public ways;

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WHEREAS, the neighbors have presented photographs which represent the relationship between the addition and neighboring properties and the public view from the alley, and these photographs show that the addition does have an adverse affect on the light and air available to neighboring properties and on the privacy of those neighboring properties, and also shows that the addition substantially visually intrudes upon the character, scale and pattern of houses along the street frontage, as viewed from the public alley; and

WHEREAS, owner has also constructed a large retaining wall in the south side yard of the property, behind which it has inserted significant fill, creating an “elevated platform structure”, for which the owner should have acquired a separate permit; and

WHEREAS, the area of the elevated platform structure should be included in the lot occupancy calculation, which would take the property’s lot occupancy above fifty percent (50%), which would require variance relief, and cause the property to be subject to the pervious surface requirements of the Zoning Regulations, under Section 412.1; and

WHEREAS, besides the substantially adverse affect resulting from the addition, a significant public street tree has apparently been damaged in the course of construction, and the owner should take steps to prevent further deterioration of this tree;

THEREFORE BE IT RESOLVED that Advisory Neighborhood Commission (“ANC”) 3C finds that the owner has not met its burden of proof to show that the addition does not have a substantially adverse affect on the use or enjoyment of neighboring properties;

BE IT FURTHER RESOLVED that ANC 3C finds that photographs of the completed addition show that the addition does have a substantially adverse affect on the use and enjoyment of abutting and adjacent properties;

BE IT FURTHER RESOLVED that ANC 3C recommends that the BZA deny Application No. 18886 for special exception relief;

BE IT FURTHER RESOLVED that the Chair and the Commissioner of 3C08 or their designee may represent the Commission on this matter before the BZA.

Attested by



*Carl Roller*  
Chair, on December 15, 2014

*This resolution was approved by roll call vote of 5-0, with one abstention, on December 15, 2014 at a scheduled and noticed public meeting of ANC 3C at which a quorum (a minimum of 5 of 8 commissioners) was present.*