

**BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

**APPLICATION OF
NILOUFAR HOORAZOR**

**2709 36TH STREET N.W.
ANC 3C**

STATEMENT OF THE APPLICANT

I. NATURE OF RELIEF SOUGHT

This statement is submitted on behalf of Niloufar Hoorazor (the “Applicant”), the owner of property located at 2709 36th Street N.W., Lot 811 in Square 1938 (the “Property”) in support of the application for special exception review pursuant to 11 DCMR §223. The Applicant seeks relief under §223 for lot occupancy permit 44% lot occupancy, pursuant to §403 and a side yard pursuant to §405.8, on a renovated single-family home in the R-1 District.

II. JURISDICTION OF THE BOARD

The Board of Zoning Adjustment (the “Board” or “BZA”) has jurisdiction to grant the special exception relief requested herein pursuant to §3104.1 of the Zoning Regulations.

III. BACKGROUND

A. Background Information Regarding the Property

The Property, also known as Lot 811 in Square 1938, contains approximately 6,450 square feet of land area and is located in northwest Washington D.C. *See* Baist Atlas Map at **Tab 9**. The nonconforming side yard contains approximately 275 square feet of land. *See* **Tab 9**. The Property was built around 1917. It is a colonial style single-family brick dwelling and located within the R-1 District. *See* Zoning Map at **Tab 10**. The Applicant acquired the property by Deed on June 4, 2013, which is properly recorded with the Recorder of Deeds. Based on good faith reliance on a property survey dated September 9, 2013 and a building permit issued contemporaneously with this date, and those subsequent

to it, the Applicant commenced, and has since substantially completed, construction on a two-story side addition to the Property. Throughout this time the Applicant reasonably relied upon the survey and building permit(s) that the northern side yard complied with §405.8, and thus not contributing to lot occupancy. The Applicant now seeks a §403 special exception due to the nonconforming side yard. The Property is presently improved with a single-family home and will be the Applicant's primary residence. The Property is not located in a Historic District and is not listed on the D.C. Inventory of Historic Sites.

B. Description of the Improvements in the Surrounding Area

Square 1938 is single-family zoned with the R-1-B District occupying the Square. The Square includes some parcels located in the Naval Observatory Overlay District (NO). The Property is not located in the NO Overlay. Square 1938 is bounded by Edmund Street on the west, 36th Street N.W. on the north, Fulton Street N.W. on the east, and 35th Street Place N.W. on the south. *See **Tab 9***. The properties along 36th Street N.W. are large single-family homes and the properties along the remainder of the Square are similarly sized single-family dwellings from the same period.

C. Description of the Home Alteration

As shown on the Architectural Plans, *see* Property Survey at **Tabs 11 and 13**, the Applicant's objective was to construct an addition to the west and south sides of the dwelling. The project involved demolition and removal of the original rear exterior and interior load-bearing walls, constructing the new addition with new load-bearing walls, renovating the interior, and installing new mechanical, electrical and plumbing systems. This construction expanded the building envelope from approximately 2,451 to 3,509 square feet. During this time, the Applicant was issued the following relevant permits:

1. May 24, 2013: Demolition permit issued for interior demolition of non-load bearing walls.
2. October 25, 2013: Building permit issued for removal of load bearing walls.
3. January 31, 2014: Building permit issued for new addition and interior renovations, including mechanical, electrical and plumbing systems.

4. May 30, 2013: Building permit issued for replacing existing concrete slabs.
5. June 6, 2013: Building permit issued for interior renovations.

The proposed addition is primarily affecting the southern portion of the Property. The existing and nonconforming northern side is not being changed by the proposed renovations. Moreover, the Applicant completed a significant amount of the renovations on the good faith reliance that the September 9, 2013 survey accurately recorded the northern side yard as 5 feet or more from the building to the property line. *See **Tab 11***. The Applicant had no reason to believe the survey would later be inaccurate. On or around August 9, 2013 the Applicant took rudimentary measurements and reasonably believed the northern side wall as 5'2" from the property line. *See Applicant's Photos and Measurements at **Tab 14***. Nevertheless, the Office of the Surveyor conducted a Wall Test that indicated the side yard was 4.94 feet or less from the outside upper level of the building face to the property line which is less than the required 5 feet and thus concluded that the Property exceeded the permissible 40% lot occupancy by 4%. *See Wall Test Survey at **Tab 12***. The Wall Test Survey was recorded on January 8, 2014, prior to the DCRA issuing the above building permits. The Applicant started and completed a substantial portion of the structural construction prior to the wall check survey. The Applicant just recently applied for specialty permits (electrical, plumbing) at which time she received notice of the wall check survey and now moves for this relief.

IV. REQUEST FOR EXPEDITED REVIEW

Relief under §223 expedited review is proper because the Applicant has substantially completed the structural overhaul component of the project, the Property complies with the standard, and a special exception creates no adverse effect on the neighboring property to the north as the relief arises from the existing condition. The majority of the addition is located on the western and southern sides of the Property, not the northern side which gives rise to the relief before the Board. The western side of the lot provides a wide side yard with substantial light and air for neighboring property owners. Therefore, the

special exception will not have a substantially adverse effect on the use or enjoyment of the adjacent dwelling and an expedited review will efficiently resolve this matter.

V. NATURE OF RELIEF SOUGHT AND STANDARD OF REVIEW

The Applicant seeks special exception relief pursuant to 11 DCMR §223. Under D.C. Code §6-641.07(g)(2) and 11 DCMR §3104.1, 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 in accordance with the Zoning Regulations and Zoning Maps, subject in each case to the special conditions specified.

VI. THE APPLICANT MEETS THE BURDEN OF PROOF FOR ZONING RELIEF FOR ADDITIONS TO ONE-FAMILY DWELLINGS

Section 223 provides relief based on satisfying specific criteria under which additional structures to single-family dwellings may be permitted where lot occupancy does not exceed 50% in an R-1 District. Each of the criteria is addressed in turn below:

223.1 An addition to a one-family dwelling or flat, in those Residence Districts where a flat is permitted, or a new or enlarged accessory structure on the same lot as a one-family dwelling or flat, shall be permitted even though the addition or accessory structure does not comply with all of the requirements of §§ 401, 403, 404, 405, 406, and 2001.3 shall be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.

The Applicant requests special exception relief under §223 to include side yard and lot occupancy increasing the project to 44%. Under §403 the maximum lot occupancy is 40%. The original lot occupancy for the Property was roughly 39%. The lot occupancy relief stems from the noncompliant side yard not satisfying §405.8. The lot occupancy and side yard relief are permitted under §223.3 as a special exception because it is less than 50%. All other aspects of the proposed project are permitted as a matter of right.

exception because it is less than 50%. All other aspects of the proposed project are permitted as a matter of right.

223.2 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, in particular:

(a) The light and air available to neighboring properties shall not be unduly affected;

The newly constructed addition does not adversely impact light or air available to adjacent properties. The nonconforming side yard is an existing condition and does not unduly impact neighbors. The western and southern additions do not create an adverse impact on the light and air available to the northern properties seeing as the side yard is open with substantial distance to the next door property.

(b) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;

The privacy of neighboring properties would not be unduly compromised. The northern properties are separated by picket fencing and a common wall. Moreover, the impact caused by the relief is *de minimis* because the wall survey indicates that the actual side yard is 4.94 feet and the fencing and wall still remain in place. See Architectural Plans at **Tab 13**. Furthermore, the northern properties are divided by trees and foliage providing additional privacy, which helps prevent any impact on the existing privacy that the neighboring property owners already enjoy.

(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

The addition does not visually intrude upon the character and pattern of the houses along 36th Street N.W. or the neighborhood. The alternations made to the property are consistent with its colonial style and structure. We submit that the addition nevertheless contributes to the character of the neighborhood and maintains the pattern of the houses in the area.

In addition to this Statement of the Applicant, the Applicant has provided the following:

1. Plat showing the existing structure on the Property;
2. Baist Atlas Map;
3. Zoning Map;
4. Wall Test Report;
5. Wall Test Survey;
6. Architectural Plans and Photographs; and
7. Applicant's Photos and Measurements

223.3 *The lot occupancy of all new and existing structures on the lot shall not exceed fifty percent (50%) in the R-1*

The lot occupancy will be 44% with the completed permitted under §223.3 as a special exception and the nonconforming side yard remains the same.

VII. CONCLUSION

For the reasons stated above, the requested relief meets the applicable standards for special exception relief under the Zoning Regulations. Pulling the addition back would create an undue hardship on the Applicant. Accordingly, we respectfully request that the Board grant the application.

Respectfully submitted

GRIFFIN, MURPHY,
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By: Meredith H Moldenhauer