

**Burden of Proof Statement
Special Exception Application**

940 14th Street, SE

To: The Office of Zoning
Government of the District of Columbia
Suite 200 South
441 4th Street, NW
Washington, D.C. 20001

From: Edward Hertwig and Cynthia Cota
Owners/Applicants
940 14th Street, SE
Washington, D.C. 20003

Date: November 3, 2014

Re: BZA Application
940 14th Street, SE (Square 1065, Lot 0055), ANC 6B, SMD 06

Introduction

Edward Hertwig and Cynthia Cota, owners and residents of 940 14th Street, SE (herein, the applicant property), hereby respectfully seek a special exception to build a rear three-story addition to an attached two-story single family dwelling.

Nature of Relief Requested

In order for the Applicant to build the proposed addition, this application seeks Board of Zoning Adjustment ("BZA") approval pursuant to 11 DCMR § 3104.1, for a special exception pursuant to Section 223 for an addition to an attached single family dwelling not meeting the minimum lot (§ 401), lot occupancy (§ 403), open court (§ 404), and non-conforming structure (§ 2001.3) requirements in the R-4 District at the applicant property.

Jurisdiction of the Board

The Board has jurisdiction to grant the requested special exemption relief pursuant to § 3104.1 of the Zoning Regulation.

Description of the Existing Property and Proposed Redevelopment

The existing building was built before the Zoning Act of 1958 and is not in full compliance with those regulations. The current owners of the property have owned the residence since 2009 and purchased the property with the current non-conformances.

The existing 1553 SF lot was subdivided in the 19th Century and, per § 401, is below the minimum lot size of 1800 SF in the R-4 District. The proposed addition does not change the lot size.

The existing structure on the applicant property occupies 47.8% of the lot. The proposed addition would increase the lot coverage to 69.4% of the property, which is 9.4% above the maximum lot coverage allowed as of right pursuant to § 403.2 for a row dwelling in the R-4 District. The applicants seek a special exception pursuant to § 223 to increase their lot occupancy to 69.4%, which is .06% below the maximum lot occupancy of 70% permitted by § 223.3 upon the grant of a special exception in an R-4 District.

An existing rear one-story addition has narrow open courts on either side. The open court between the North property line and the existing addition is about .6 feet (or 7 inches). The open court between the South property line and the existing addition is about .75 feet (or 9 inches). Per § 404, the open courts need to be a minimum of 6 feet wide. The two-story addition on the existing foundations of the one-story structure and the rear three-story addition seek to extend these non-conforming courts. Window and door openings are not being proposed on the walls extending the non-conforming open courts.

Bases for Granting a Special Exception

The proposed addition will be similar in size and style to the existing structures in the immediate vicinity of the applicant property. Additionally, the proposed addition will not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property as enumerated in § 223.2.

Section 223 of 11 DCMR provides for zoning relief from certain municipal regulations upon the satisfaction of specific regulatory criteria. Upon the satisfaction of such criteria, additions to single-family dwellings may be permitted within a residential district.

Section 223.1 provides as follows: *“An addition to a one-family dwelling or flat, in those Residence Districts where a flat is permitted, that does not comply with all of the applicable area requirements of sections 401, 403, 404, 405, 406, and 2001.3 shall be permitted as a special exception if approved by the Board of Zoning Adjustment under section 3104, subject to the provisions of this section.”*

The proposed three-story addition will be on the rear, east-facing side of the existing structure. Currently, the existing structure covers 47.8% of the lot. The proposed structure would cover 69.4% of the lot, below the 70% maximum lot coverage allowed for a structure in an R-4 District pursuant to a special exception under 11 DCMR 223.3.

Section 223.2 provides as follows: *“The 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 --*

1. 938 14th Street, SE -- This property lies to the north of the applicant property and shares a common property line. The rear of the existing structure at 938 14th Street, SE, like the rear of the existing and proposed structure on the applicant property, faces due east, and the rear of both properties are bordered by an open alley. The proposed structure will not block the light or air enjoyed by rear of 938 14th Street, SE, which flows uninhibited from the north and east. Although the proposed structure will extend beyond the southern side of the current structure at 938 14th Street, SE, there will be substantial periods of direct light into the rear of the property at 938 14th Street, SE from the east in the morning hours, and the direct light and airflow to the front of 938 14th Street, SE, which faces due west, will not be impacted by the proposed structure. The owners of 938 14th Street, SE have reviewed the plans for the proposed structure and have no objections to the structure as proposed.

2. 942 14th Street, SE -- This property lies to the south of the applicant property and shares a common property line. The rear of the existing structure at 942 14th Street, SE, like the rear of the existing and proposed structure on the

applicant property, faces due east, and the rear of both properties are bordered by an open alley. The proposed structure will not block the light or air enjoyed by 942 14th Street, SE, which currently flows uninterrupted from the alley, and from the south and east of the properties. Although the proposed structure will extend beyond the northern side of the current structure at 942 14th Street, SE, the proposed structure will not inhibit the light and airflow to the rear of 942 14th Street, SE, and the direct light and airflow to the front of 942 14th Street, SE, which faces due west, will not be impacted by the proposed structure. The owner of 942 14th Street, SE has reviewed the plans for the proposed structure and has no objections to the structure as proposed.

3. 1413 Ives Place, SE -- Although neither abutting nor adjacent to the applicant property, this property lies due east of the applicant property, on the east-side of the alley bordering the rear property line of the applicant property. The proposed structure will not inhibit the light or air available to this property, and the owner of 1413 Ives Place, SE has reviewed the plans for the proposed structure and has no objections to the structure as proposed.

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

1. 938 14th Street, SE -- The proposed structure will not compromise the privacy of use and enjoyment of 938 14th Street, SE as the proposed structure will only have east-facing windows on the second story, which is similar to the existing structure on the applicant property, and will have east-facing windows on the third floor, as well as 1 south-facing window on the third story looking onto a partial roof deck. None of these windows will provide for a direct line of sight into the rear of 938 14th Street, SE, which lies north of the proposed structure.

2. 942 14th Street, SE -- The proposed structure will not compromise the privacy of use and enjoyment of this property as the proposed structure will only have east-facing windows on the second story, which is similar to the existing structure on the applicant property, and will have east-facing windows on the third floor, as well as 1 south-facing window on the third story looking onto a partial roof deck. Although the 1 south-facing window will overlook the rear of 942 14th Street, SE, which lies to the south of the proposed structure, the south-facing window is set back approximately 8 feet from the common property line shared with 942 14th Street, SE, and the view from this window will be obscured by the partial roof deck and the support railing around the perimeter of

the deck. The south-facing window, moreover, will not provide for a direct line of sight into the existing structure at 942 14th Street, SE. The owner of 942 14th Street, SE has reviewed the plans for the proposed structure and has no objections to the structure as proposed.

3. 1413 Ives Place, SE -- Although neither abutting nor adjacent to the applicant property, this property lies due east of the applicant property, on the east-side of the alley bordering the rear property line of the applicant property. The proposed structure will be set back approximately 28 feet from the rear property line, and more than 35 feet from west-facing side of 1413 Ives Place, SE. The view of this property from the proposed structure will be the same as the current view from the existing structure on the applicant property and will not inhibit the privacy of use and enjoyment of this property.

(c) The addition, together with the original building, as viewed from the street, alley, or other public way, shall not substantially visually intrude upon the character, scale, and pattern of houses along the subject street frontage --

The proposed structure will be constructed off the rear of the existing structure on the applicant property, and the proposed third story would only be over the new construction off the rear of the existing structure. The view of the frontage of the existing structure from 14th Street, SE, as well as the view of the frontage of the 5 other homes to which the existing structure is attached, would not be altered by the proposed structure.

Four of the five rowhomes to which the existing structure is attached currently occupy more lot coverage than the existing structure on the applicant property, and the percentage of the lot coverage of the proposed structure would be similar to the percentage of the lot coverage of these neighboring properties. For example, 936 14th Street, SE, currently has an addition off the back of the property that occupies approximately 60% of the lot. Additionally, 938, 942, and 944 14th Street, SE each have detached garages at the rear of their properties, making each of their lot occupancies at least 60% of the lots, if not more. By contrast, at present, the lot coverage of the applicant property is only 47.8%.

The proposed structure will also be in keeping with the character and scale of the buildings in the immediate vicinity of the applicant property. As illustrated in the attached Appendix, the scale of the neighborhood in the immediate vicinity of the

applicant property contains a number of 3-story structures, many of which are larger than the proposed structure on the applicant property. We respectfully submit that the proposed structure is in keeping with the overall scale of the neighborhood and would not exceed the scale of the neighboring properties.

For example:

A three-story addition was recently added to 1420 Ives Place, SE (Figure #1), just northeast of the applicant property. Immediately south of the applicant property at the intersection of 14th Street, SE and K Street, SE, a 3-story, 6-unit condominium building was recently constructed (Figure #2). North of the applicant property at 918 14th Street, SE, a three-story addition is currently being added off the back of, and over, the existing structure (Figure #3). West of the applicant property, a rear three-story addition was recently added to 951 14th Street, SE (Figure #4).

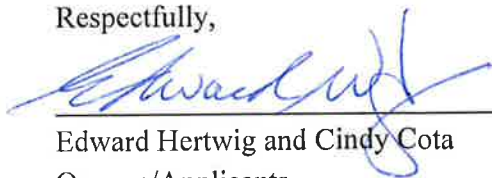
The proposed addition will be constructed of material similar to that of the neighboring structures and will be compatible with the overall character of the neighborhood in the immediate vicinity of the applicant property.

In support of this application for a special exception, please find:

1. Photographs of the neighboring properties and photographs of the structures in the immediate vicinity as referenced above (see Appendix);
2. Statements of support from the owners and residents of 936, 938, 942, 944, 946, and 949 14th Street, SE, and 1413 Ives Place, SE;
3. Architectural drawings of the proposed structure, as well as elevation drawings; and
4. The Official Plat from the DC Office of the Surveyor for the applicant property.

Thank you in advance for your consideration of our application.

Respectfully,



Edward Hertwig and Cindy Cota

Owners/Applicants

940 14th Street, SE

Washington, D.C. 20003



BZA Special Exception Application – 940 14th Street SE

Appendix: Photographs in support of Burden of Proof Statement

Figure 1 – 1420 Ives Place, SE – 3-story addition
(north and east of applicant property)



Figure 2 – 3-Floor Condominium Building at Intersection of 14th and K, SE
(south of applicant property)



Figure 3 – 918 14th Street, SE – 3-story addition in progress
(north of applicant property)



Figure 4 – 951 14th Street, SE – 3-story addition off back of property
(west of applicant property)

