

BOARD OF ZONING ADJUSTMENT
SPECIAL EXCEPTION APPLICATION - § 223

APPLICANT'S STATEMENT

Alexandra Freidberg (Applicant)
72 Seaton Place, NW; Square 3106, Lot 96
Expedited Review Pursuant to 11 DCMR § 3118

I. Introduction.

Alexandra Freidberg (the “Applicant”) is the owner of the property and improvements located at 72 Seaton Place, NW, Square 3106, Lot 96 (the “Subject Property”). The improvements consist of a two and a half (2-1/2) story row house (the “Building”). The Applicant is proposing to construct an addition to the top of the Building, making the current attic space on the third floor into a full third story and habitable space. The addition amounts to an increase in the height of the existing roof of approximately five (5) feet near the front of Building behind the turret, to a height of about eight (8) feet near the rear of the Building. The height variation of the addition is due to the existing roof which slopes downward from front to back. The resulting roof will be flat, with a maximum height of thirty-six (36) feet. This addition is being done as part of a restoration following a recent fire that substantially damaged the Building. The Building is a two-unit flat, one unit of which is the Applicant’s primary residence. The actual lot occupancy of the proposed addition is approximately 56%, including a deck at the rear of the Building. The total lot occupancy of the existing Building is 64%, about 6% of which includes the area of two open courts which were included in Building Area due to court widths of less than five (5) feet. Special Exception approval pursuant to §223 is therefore requested for relief from the prohibition against additions to nonconforming structures (2001.3), from the expansion of a nonconforming court (406.1), and from maximum lot occupancy (403.2).¹

¹ The area of the addition is approximately 845 square feet, representing an actual lot occupancy of 56.3%. If the area of the nonconforming court adjacent to the addition were included, the lot occupancy of the addition would be approximately 62.3%, so relief is being requested for lot occupancy.

II. Description of the Property and the Proposed Addition.

The Property is located at 72 Seaton Place, NW (Square 3106, Lot 96) in the R-4 zone district (See Zoning Map attached as Exhibit A). The Building is a two-story plus cellar and attic row structure on the south side of Seaton Place. Adjacent to the Building to the east is a three-story row dwelling which was previously expanded to three full floors, similar to the proposed construction on the Subject Property. Adjacent to the west is a two-story plus cellar and attic space, similar to the existing Building. Photographs are attached as Exhibit B.

The specific areas of relief requested under §223 are (i) lot occupancy under §403; (ii) additions to nonconforming structures under §2001.3; and open court width under §406.

The proposed addition will expand the existing attic space into a habitable third floor. The height of the Building will be increased from thirty-two (32) feet to thirty-six (36) feet, well below the maximum permitted height. There will be no windows on either side of the addition, and the addition will not have a material affect on any light and air to neighboring properties.

III. Expedited Relief Requested.

The Applicant is requesting expedited review of this Application pursuant to 11 DCMR § 3118.

IV. 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 area of the addition is less than the maximum permitted 60% lot occupancy, and with the addition, the height of the Building will still be four (4) feet below the maximum permitted height of forty (40) feet. With the proposed addition, the Building’s mass and height will be similar to the neighboring building to the east, and will not substantially affect light and air to the property to the west. The addition is therefore 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 addition will not have a substantially adverse effect on the use or enjoyment of neighboring properties. As noted above, the addition will have no significant impact on any

neighbors' use or enjoyment of their property. There will be no windows on the sides of the addition, therefore no impact on the privacy of neighboring properties. The neighboring property to the east will not be substantially impacted as to light and air because of its location to the east of the Subject Property and the proposed addition. The neighboring property to the west has only a skylight and attic window that could potentially be slightly impacted. Therefore, there is no substantial adverse effect resulting from the proposed addition.

The addition will also be set back from the front of the Building, and will likely not be seen from the front street. Finally, the maximum height of the Building will be only thirty-six (36) feet.

Section 223.3 *"The lot occupancy of all new and existing structures on the lot shall not exceed seventy percent (70%) in the R-3 District..."*

The existing and proposed lot occupancy is 64%.

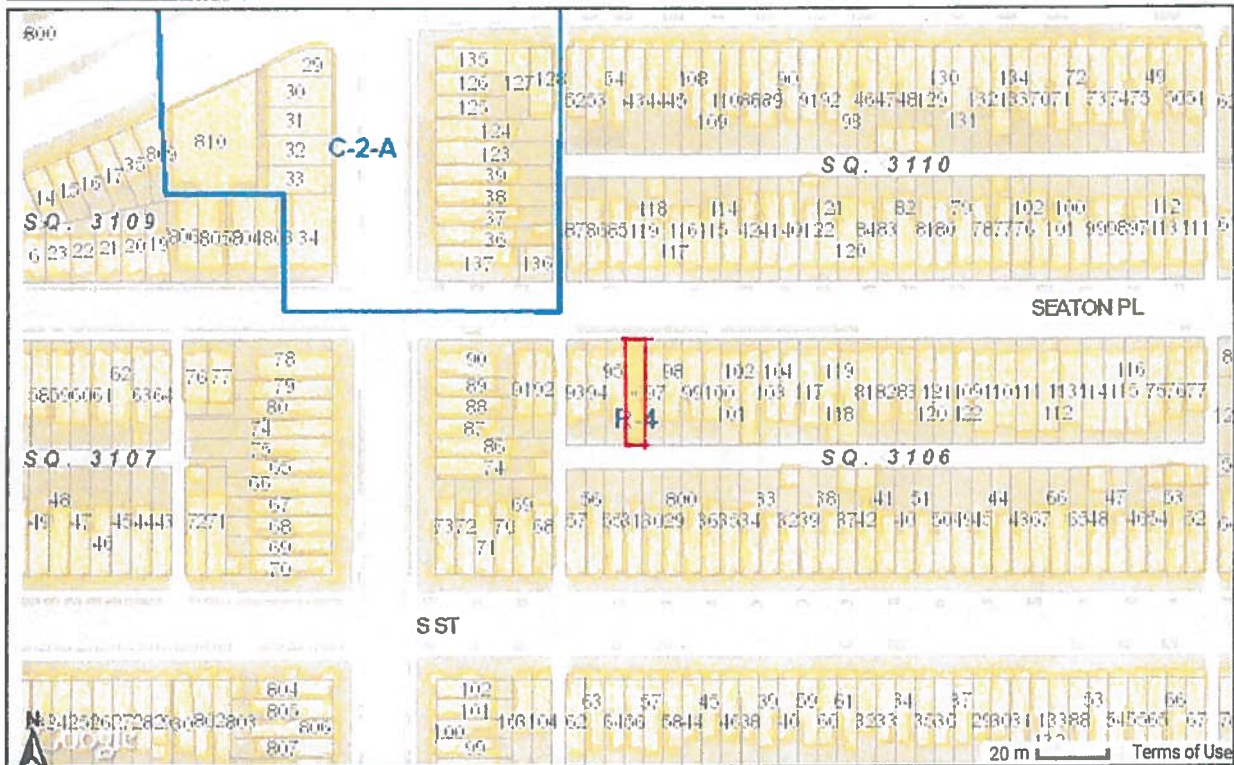
V. Conclusion.

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 pursuant to the expedited review process under § 3118.

Respectfully submitted,



Martin P. Sullivan, Esq.



Zoning
Layers



Latitude: -77.011401, Longitude: 38.914648

While DCOZ is committed to providing accurate and timely zoning information via the zoning map, DCOZ cannot guarantee the quality, content, accuracy, or completeness of the information, text, graphics, links, and other items contained therein. All data visualizations on the zoning map should be considered approximate. Information provided in the zoning map should not be used as a substitute for legal, accounting, real estate, business, tax, or other professional advice. DCOZ assumes no liability for any errors, omissions, or inaccuracies in the information provided regardless of the cause of such or for any decision made, action taken, or action not taken by the user in reliance upon any maps or information provided herein. DCOZ retains the right to change any content on its zoning map without prior notice.

Zoning Data Summary*

Square/Suffix/Lot	3106 / n/a / 0096
Premises Address	72 SEATON PL NW
Zoning District(s)	R-4
Overlay District(s)	
Pending Zoning District(s)	
Pending Overlay District(s)	
PUDs	None
Pending PUDs	None
Ward	5
Council Member	Kenyan McDuffie
ANC	5E
ANC Chairperson	Sylvia M. Pinkney
SMD	5E07
Commissioner	Bertha Holliday

* For a detailed explanation of zoning related terms, please refer to the DC Zoning Map Glossary available at http://maps.dcoz.dc.gov/css/Map_App_User_Guide/Glossary.pdf.

** To the extent an active PUD exists on a particular site, the PUD zoning depicts the zoning in effect for that site.

Exhibit A