

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

Application of Mary Calomiris and David Kang

**APPLICANT'S PRE-HEARING STATEMENT
August 2015**

This Pre-Hearing Statement ("Statement") outlines the existing and proposed use of the property and the manner in which the application ("Application") complies with the specific tests and burden of proof for the special exception sought in this application before the Board of Zoning Adjustment (BZA)

NATURE OF RELIEF SOUGHT

This is an application pursuant to 11 DCMR § 3104.1 for a special exception under § 223.1 to allow additions as reflected in the DC Builder's Plats and Project Plans which amount to a reconfiguration of a portion of the existing footprint of the single family dwelling situated on subject property, including a de minimis enlargement or increase in the existing nonconformity of rear yard from its current 13.3 feet to 11.3 feet.

The 2 feet increase in nonconformity of rear yard is attributable to a second story cantilevered bay portion of the addition atop the existing first floor garage.

The subject property is located in the R-1-B zone district within which the minimum rear yard setback requirement is twenty five feet (25ft.) as set forth under § 404.1

The increased proposed percentage of lot occupancy of approximately 39.6% is in compliance with the maximum prescribed for the underlying R-1-B zone district, as set forth under § 403.2.

The proposed reconfiguration additions do not create any new nonconformity not already in existence and will not increase upon the existing nonconformity of side, save the de minimis extension in the existing nonconformity of rear yard as described above.

This application therefore requests relief under § 223.1, specifically relating to additions which recreates in the same aggregate, the existing nonconformity of side yard and seeks a minor extension in the nonconformity of rear yard pursuant to § 2001.3 (b) (2), and as further set forth under §§ 405 and 404 respectively.

SUMMARY OF APPLICATION

The applicant seeks special exception pursuant to 11 DCMR § 3104.1 to allow under § 223.1, the construction of additions, which are mostly crawl spaces underneath unobtrusive one-story first floor structures, except for the second story addition atop an existing first floor indoor garage space.

The proposed additions do not decrease the existing setback from the shared common lot line opposite 47th Street, except the minor extension of the nonconforming rear yard opposite Yuma Street.

The relief sought specifically under §§ 2001.3 (b), (2) and 404 and under § 223.1, is to permit the cantilevered second story bay above the existing one story garage

The existing structure, which is conforming with respect to the maximum allowable percentage of lot occupancy, will occupy approximately 39.6% of the lot area, which is less than the maximum forty percent (40%) permitted for a detached single family dwelling in the underlying R-1-B zone district, and is well below the fifty percent (50%) limit set forth under § 223.3 to allow application for special exception relief under § 223.1

JURISDICTION OF THE BOARD

The application is properly before the BZA. The Board is authorized to grant the requested special exception under § 8 of the Zoning Act, DC Official Code § 6-641.07 (g) (2) (2001), as further set forth in 11 DCMR § 3104.1

PROPERTY LOCATION AND DESCRIPTION

The property is located at 4308 47th Street NW, in the American University Park neighborhood east in Square 1533 Lot 0028 (the “Property” or “Subject Property”). The Subject Property is a corner lot, improved with a two-story, plus cellar detached structure to be used and occupied as a one-family dwelling. The existing building was constructed prior to May 12, 1958

The Subject Property is approximately four thousand five hundred and eighty three square feet (4,583 ft²) in lot area. The lot is fifty feet (50 ft.) wide and is approximately one hundred and seventeen square feet in depth.

The immediate neighborhood or vicinity consists of single family detached dwellings, of pre-1958 two-story colonial type architectural design buildings. Square 1533 within which subject property is located at the northeast corner where Yuma and 47th Streets intersect, consists of fourteen (14) back to back lots of averagely similar sizes.

Whereas Square 1533 is split into two blocks – North and South -, the square of location of subject property is bounded by Yuma Street to the north, 48th Street to the west, 47th Street at the east and Windom Street to its south.

Therefore, the subjected property immediately abuts only two adjacent properties, 4304 47th Street to its south and 4702 Yuma Street, to its west.

As aforementioned, the proposed addition to the west property lot line and opposite 47th Street will not decrease the existing proximity of the existing structure to the nearest face of the building located on the adjacent property, 4702 Yuma Street.

As graphically illustrated by the existing conditions site plan, the current distance between the existing furthest point of the improvement on subject property, that being the face of the existing bay window to the face of the building on adjacent lot is 13.1 feet (4 ft. + 9.1 ft. = 13.1 ft.)

The existing distance to the face of the building located across the subject property line to the south is approximately 35.9 feet (13.4 ft. + 22.5 ft. = 35.9 ft.). The proposed second story bay projection, will reduce this distance by a de minimis 2 feet, thereby reducing that existence separation distance to 33.9 feet.

STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

The Applicant requests approval from the Board of Zoning adjustment (BZA) of a special exception under § 223 to allow an addition to the existing single family dwelling, which will not exceed the allowable percentage of lot occupancy, will not be in compliance with the required rear yard, by a de minimis extension of the existing nonconformity of rear yard and lot occupancy under §§ 2001.3 (b) (2), and 404 respectively.

The proposed extension of the bay projection into the rear yard is a part of a second story addition atop an existing first floor garage.

The property is zoned R-1-B, wherein § 403.2 restricts buildings or structures to a maximum lot occupancy of 40%. At 39.6 %, the proposed project is in compliance with the maximum allowed percentage of lot occupancy.

The Board is authorized to approve additions to a one-family dwelling under § 223 where such additions may not comply with the requirements set forth in §§ 401, 403, 404, 405, 406, and 2001.3. The subject application seeks deviation from the provisions of §§ 403, 404, and 2001.3.

Approval of an addition under § 223, are subject to the following provisions:

- 223.2 The addition or accessory structure 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.
- 223.3 The lot occupancy of all new and existing structures on the lot shall not exceed fifty percent (50%) in the R-1 and R-2 Districts or seventy percent (70%) in the R-3, R-4, and R-5 Districts.
- 223.4 The Board may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent or nearby properties.
- 223.5 This section may not be used to permit the introduction or expansion of a nonconforming use.

The applicant submits that the proposed addition complies with the standards and requirements of § 223.2 as follows:

- (a) The proposed additions are unobtrusive one-story additions, with crawl space and/or cellars below, where the closest abutting property to the west is 13.1 feet, the same distance or proximity as already existing. Where a second story addition atop an existing first floor garage, the distance to the face of the building located on the adjacent lot is 33.9 feet to the south. No other property is located in close enough proximity to be affected by the proposed addition given that the properties

located to the north and east are separated by streets that are at least 60 feet right of way wide. The light and air available to neighboring properties are not unduly affected

- (b) The proposed one-story addition to the west of the subject property is screened by an existing six feet privacy wood fence and as aforementioned, since the existing setback is not decreased, it is not unreasonable to conclude that the proposed condition does not create a more intrusive condition than currently exists, to the extent one exists at all. The second story addition atop the existing one-story garage, including its bay window projection, which is the subject of relief sought in this application, will be removed 33.9 feet from the face of the building on the adjacent lot to its south and that face is the garage, which is not habitable space. Hence, the privacy of use and enjoyment of the two adjoining buildings are not unduly compromised
- (c) The proposed reconfiguration of a portion of the existing building, including the bay window abutting the subject property's lot line to the west will not be any more visible from Yuma Street than the existing condition of property because the structure is screened by an existing 6 feet privacy fence and canopies of matured trees. Whereas the second story addition on top of the first floor garage will be visible from 47th Street, it is carefully designed to be compatible with and in keeping with the prevailing architectural design of the neighborhood. The buildings in square 1533 are generally two-story 1950's style colonial structures with attached indoor garages, some of which have undertaken second floor additions, as applicant proposes. Therefore the proposed additions are not inconsistent with scale and pattern of buildings in the neighborhood and will not substantially intrude upon the character of the houses as viewed from the street.
- (d) The architectural plans, renderings, plat and other graphic illustrations, including photographs of neighborhood properties adjacent to the property of application confirm the compatibility of scale and pattern of the proposed addition to the prevailing character of the neighborhood.

Section 223.3 – The Subject Property is located within the R-1-B Zone District, and the maximum proposed lot occupancy at approximately 39.6% is well under the 50% limit set forth under this section for the underlying zone.

Section 223.4 – The proposed one story addition is screened on all abutting lot lines by an existing wooden fence to ensure privacy of use and enjoyment of the two adjoining properties to the west and south. Further, the existence of mature trees with substantial canopies, provide additional screening to ensure the privacy of use and enjoyment of the only two adjoining properties potentially affected.

Section 223.5 - The current use of the Subject Property is residential one-family dwelling, a conforming use in the underlying R-1-B zone. No change in use is contemplated or proposed.

CONCLUSION

The Board is authorized to grant a special exception where in its judgment, the 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 properties.....”

The Applicant submits that the instant application complies with all conditions for the granting of the requested special exception set forth in § 223 as outlined above and respectfully requests that the application be granted.