

**Board of Zoning Adjustment
Special Exemption Request – Burden of Proof Statement**

Date: 12-11-15

Owners: Robert Bailey
Address: 1105 Abbey Place, NE
Square: 0773
Lot: 0176
Zone: R4

The applicant would like to remove two non-conforming open courts, add a second story to the enclosed rear porch, and enclose the alley level beneath the existing enclosed porch. Because the proposed plans include increasing nonconforming conditions, the applicant is requesting Special Exceptions under 11-223 for:

1. Non Conforming Structure (2001.3): The original house is non-conforming as it occupies 65% of the lot but has a conforming single-family residential use.
2. Lot Occupancy (11-403): Currently the building area covers 65% of the Lot Area. The proposed plans leave 69% lot coverage, increasing a nonconforming condition that requires 60% maximum in R4 districts.
3. Rear Yard (11-404): Currently the rear yard is 16'-8". The proposed plan leaves 13'-6.5", making a nonconforming condition that requires 20'. Section 11-404 requires minimum 20' rear yards. The lots and houses were created prior to the existing zoning regulations and therefore were only made non-conforming when the existing regulations were put into effect.
4. Lot Area (11-401): The lot is 1,037.38 SF, a nonconforming condition that requires 1,800 SF. Given the existing street layout of the area, it is impossible to meet this requirement. In addition, the lots and houses were created prior to the existing zoning regulations and therefore were only made non-conforming when the existing regulations were put into effect.

The lot is a rectangle and the structure on the lot is fully attached, with two nonconforming open courts on the south and north property line at the rear. An existing porch was enclosed at some point in the past (which created the non conforming open courts). The majority of the houses on the square have decks or enclosed porches at the rear. All the houses have rear doors on the 1st floor indicating a stoop or porch was originally intended. Though there are no official records like building permits to indicate the construction of rear decks, the precedent on the square and the building material (brick piers) indicate there was a deck or porch attached to the applicant's house prior to the zoning regulations institution and therefore is an existing condition.

Special Exception Requirements are met:

1. The proposed plans will not have a negative effect on the adjacent homeowners:
 - As noted, almost all the houses on the block have rear extensions that are the same depth as the applicant's. Therefore the light and air of adjacent neighbors will not be negatively impacted.
 - The privacy of use and enjoyment of neighboring properties shall not be unduly compromised because there are no windows placed on either sides of the addition (shared party-wall property lines).
 - The project will conform to the character, scale and pattern of the houses on the block. The 2nd floor addition and infill at grade at the rear maintains the existing alley ~~scope and~~ stays well below the height limitation prescribed. By using appropriate material and maintaining

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the height and scale of the existing houses on the block, the character of the alley is unchanged.

- The adjacent neighbors have indicated support for the proposed project and we will have signed letters shortly. In addition, other neighbors that can see the addition have also indicated their support.
2. The lot occupancy is under 70% as required by 223 for R4 districts.
 3. The house is used as single family residential, a conforming use and there are no plans to change the use.

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