GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

MEMORANDUM

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TO: Board of Zoning Adjustment

FROM: Andrew Altman
Director

DATE: July1, 2003

SUBJECT: **BZA** Application 17032 – Request for **Special Exception** relief pursuant to **§223** and 411 for a proposed addition to the single family home at 2124 Leroy Place, NW, in the R-3 residential zone district; filed by Edward Grandis, attorney for the owners.

APPLICATION
Special exception relief pursuant to §223 and 411 of Title 11 DCMR to permit the construction of a rear addition and elevator penthouse to a single family dwelling at 2124 Leroy Place, NW. The requested relief would allow the construction of a 100 square foot rear addition resulting in a lot coverage of 64 % and the placement of an elevator penthouse not meeting the one-to-one roof setbacks. The property is developed and used as a single family residence.

SUMMARY RECOMMENDATION
The Office of Planning recommends approval of the request for special exception and variance relief.

EXISTING ZONING AND RELIEF REQUEST
The property is in an R-3 residential zone. The R-3 zone district is designed essentially for row dwellings, but may also include one family detached and one family semi-detached dwellings. The maximum matter-of-right lot occupancy for lots in the R-3 district is 60% for row dwellings. Section 223 permits a lot occupancy of 70% by special exception subject to approval by the BZA.

Section 400.7 Penthouse Setback
The applicant has applied for special exception relief through Section 411.11. Section 411.11 states:

> Where impracticable because of operating difficulties, size of building lot, or other conditions relating to the building or surrounding area that would tend to make full compliance unduly restrictive, prohibitively costly, or unreasonable, **the Board of Zoning Adjustment shall be empowered to approve, as a special exception under § 3104, the location, design, number, and all other aspects of such structure regulated under §§ 411.3 through 411.6,** even if such structures do not meet the normal setback requirements of §§ 400.7, 530.4, 630.4, 770.6, 840.3, or 930.3, when applicable, and to approve the material of enclosing construction used if not in accordance with §§ 411.3 and 411.5; provided, that the intent and purpose of this chapter and this title shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely. (emphasis added)

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It is OP's understanding that the special exception provision only applies to §§ 411.3 through 411.6, and it application cannot be extended to permit special exception relief to §§ 400.7, 530.4, 630.4, 770.6, 840.3, or 930.3.

Therefore an area variance is required for the penthouse roof. OP believes that the application meets the standard for an area variance as follows:

Exceptional condition of a specific piece of property:

- The building and lot are only 25 feet wide

Practical Difficulty:

- The penthouse has the following dimensions:
  - Height = 12' 9'' above the roof.
  - Width = 9.2'
  - Depth = 13.8' feet
- Therefore it is physically impossible to meet the one-to-one height-to-setback requirement of section 400.7.
- The penthouse is proposed at the maximum possible setback of 10 feet 8 inches from the eastern wall and zero feet from the western wall.
- While it can not meet the side setbacks, it will exceed the required setbacks from the front and rear walls of the house with setbacks of 26 feet 1 inch and 14 feet 11 inches respectively. The penthouse will sit along the western property line thus any shadow will most impact the western adjoining property, but would be cast only in the morning.

Intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map
The property is zoned residential and will continue to be used as a residential property.
The intent of the roof structure regulations is stated in §411 as:

> To exercise a reasonable degree of architectural control upon roof structures in all districts, housing for mechanical equipment, stairway and elevator penthouses, and, when not in conflict with An Act To Regulate the Height of Buildings in the District of Columbia, approved June 10, 1910 (36 Stat. 452, as amended; D.C. Code, 2001 Ed. §§ 6-601.01 to 6-601.09 (formerly codified at D.C. Code §§ 5-401 to 5-409 (1994 Repl. & 1999 Supp.))), penthouses for storage and toilets incidental and accessory to roof swimming pools shall be subject to conditions and variable floor area ratio credit specified in this section.

The architectural design of the penthouse has been reviewed and approved by the Historic Preservation Review Board. The applicant proposes to construct the penthouse from brick to coordinate with the existing structure.

Special Exception Relief - Lot Occupancy

223.1 An addition to a one-family dwelling or flat, in those districts where a flat is permitted, that does not comply with all of the requirements of §§401, 403, 404, 405 or 406 of this title shall be permitted if approved by the Board of Zoning Adjustment in accordance with the conditions specified in §3104 of Chapter 31 of this title, subject to the provisions of this section.

Section	Item	Restriction	Provided	Increase
403	Lot Occupancy	60% max	64%	4%

Based on the information provided in the application relief is needed for the lot occupancy provision of §403. The maximum permitted lot occupancy for property within the R-3 zone district is 60 %, the proposed addition will result in a site with a total lot occupancy of 64 %, a increase of only 4 %. Section 223.3 provides for a lot occupancy of no more than seventy percent (70%) in the R-3, R-4 and R-5 Districts by special exception upon approval by the Board of Zoning Adjustment.

223.2 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;

The addition is proposed to add a breakfast room at the rear of the house. The drawings show that the one-story addition will be constructed along the western common wall with adjoining residence, at the rear of the lot. There is nothing to suggest that the addition will impair the light or air available to the adjacent neighbors. The proposed addition will not extend past the existing rear wall of either adjoining residence,

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

The addition will not reduce the privacy or use of the neighbor's property. The rear wall of the addition will not extend beyond the adjoining neighbor wall and the proposed addition is only shown to one story tall. The rear of the site is adjacent to an alley.

(c) The addition, 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 street frontage;

The proposed addition will not change the character, scale or pattern of houses along the street. The addition is proposed at the rear of the existing house and will not be visible from the street. Photographs from both the street and alley, and an elevation drawing of the side addition, show that the completed structure will not visually intrude on the character of the neighborhood. The proposed addition has received conceptual approval from the Historic Preservation Review Board in February 2003.

(d) In demonstrating compliance with (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 to adjacent buildings and view from public ways.

The applicant has provided elevation drawings, photographs, and a site plan showing the relationship of the existing house to the proposed addition and the completed structure to the adjoining properties.

CONCLUSION

Section 223 was initiated at the request of the Board of Zoning Adjustment and adopted by Zoning Commission Order #840 in 1997. Order #840 states that the "[T]he purpose of the amendment is provide a legal basis for making reasonable additions to single-family dwellings where the strict tests associated with an area variance are unattainable." It further states that "[T]he overall goal of the proposal is to provide a

degree of flexibility regarding additions, while retaining essential controls related to effects on neighboring properties and neighborhood character."

Based on the information provided, OP concludes that the proposal will have no adverse impact on the adjoining properties, will not intrude on the character or scale of the neighborhood, and will not infringe on the full use and enjoyment of the neighboring properties.

COMMUNITY COMMENTS

The applicant reports that the ANC voted to support the relief in June 2003.

RECOMMENDATION

The Office of Planning concludes that the application meets the special exception criteria of §223 and the variance tests and recommends approval of the application.