Preliminary Statement Outlining How the Application Meets the Required Burden of Proof

Application of Maurice Walters and Mary Jean Pajak for special exception relief under Section 223 from lot occupancy requirements (Section 403.2), and side yard requirements (Section 405.8).
Zoning: R-4, Square 867, Lot 825

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General Information:
The site, known as 623 Constitution Avenue, NE, is located on the south side of Constitution Avenue, between 6th Street and 7th Street.

The lot is rectangular in shape, having a width of 18.0 feet and a depth of 136.3 feet.

The property is improved with a two-story semi-detached 708 sq. ft. single family dwelling 13.9 feet by 26 feet, built in the 19th C, as well as a two-story row accessory structure consisting of a garage and recreation room built in 1972 under appeal No.10621 (copy attached).

The single family dwelling on the site is set back 24 feet from the northern property line, unlike all other structures on the block, which are located on the northern property line.

The structure was constructed prior to May 12, 1958, the effective date of the current Zoning Regulations. On that date, the structure became nonconforming with regard to the side yard requirements for the R-4 District because the existing side yard is 4 feet wide.

Current lot occupancy with the two-story dwelling and garage is 46% (this lot occupancy includes the existing side yard).

The adjacent properties to the west and east of the site are also non-conforming. The property to the west has a non-conforming side court and the lot occupancy is approximately 66%. The property to the east is non-conforming with the lot occupancy requirement (94%), height, and has a non-conforming court.

The adjacent property to the west has a 10 feet high masonry wall (stepping down to 8 feet tall) on the property line. This wall extends 0.2 feet into the subject property's side yard from approximately 3 feet behind the front of the subject dwelling to approximately 8 feet beyond the dwelling.

Special Exception Relief From the Zoning Regulation

Under Section 223, the applicants are seeking special exception relief from lot occupancy requirements (Section 403.2) and side yard requirements (Section 405.8) to construct a 547 sq. ft. two-story rear addition to the dwelling. This addition will extend the existing building footprint by 18 feet to the south, plus a 2'-4" deep bay. The proposed addition

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will add the space necessary for the applicants to provide separate living and dining areas on the first floor and a 2nd bedroom on the second floor. The applicants are extending the current side walls of the structure, maintaining the same passage (side yard) width on the west side of the dwelling. The proposed addition will be masonry construction.

The "by-right" scheme for an addition to the building would enlarge the width of the structure to create a row dwelling. The neighbor to the west prefers the proposed scheme to maintain the existing line of the house with the proposed addition.

Section 223.4 states that the lot occupancy of the dwelling together with the addition shall not exceed 70% in the R-4 district. The proposed addition results in a lot occupancy of 60%.

Section 223.3 requires that **The additions shall not adversely impact 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;

Light and air of the neighbor to the west would be unaffected by the proposed addition, due to the bulk of the neighboring building to the east at 629 Constitution Avenue. This building, originally constructed as a C&P Telephone office building, is approximately 50 feet in height and occupies the entire lot. The proposed addition to 623 Constitution Avenue is in the shadow of 629 Constitution, and does not affect neighbors to the west.

The neighbor to the east at 629 Constitution consists of a condominium with 18 units. Windows exist on the side of the building adjacent to the proposed addition. The windows on the 1st, 2nd, and 3rd floors are along a corridor that contains the entrance doors to the units in the building. Therefore, no windows for individual units on floors one and two will be affected by the proposed addition. The corridor and the units on the third floor are well above the height of the proposed addition. One unit, on the basement level located below grade, has windows and a door opening into an areaway. These windows and door open onto a small patio, approximately 7'-6" below the adjacent grade, bounded by a brick wall approximately 30 feet in height at the existing dwelling, and approximately 8 feet in height for the remainder of the length of the space (35 feet). There are also existing chain link and wooden fences approximately 6 feet high on top of the brick retaining wall. The proposed addition will extend the height of the wall for an additional 18 feet of the areaway.

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

Privacy and use and enjoyment of neighboring properties will not be unduly compromised. Windows are proposed on the west side of the addition, but these windows will not be at a height that allows views into the neighboring property.

(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 subject street frontage,

The addition, together with the original building, as viewed from the street does not visually intrude upon the character, scale and pattern of houses along the subject street frontage. Also, the construction will include restoration of the front façade. The concept for the addition was provided to the Historic Preservation Review Board, and they approved the overall concept of the addition at the June 26, 2003 hearing. The addition will not be visible from any other public way, other than from Constitution Avenue..

(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 to adjacent buildings and views from public ways.

Plans, photographs and drawings have been provided to represent the relationship of the proposed addition to adjacent buildings and views from public ways.