4529 Lowell St. NW
Washington, D.C. 20016

April 20, 2004

Director
Board of Zoning Adjustment
Office of Zoning
441 4th Street, NW Suite 210
Washington, D.C. 20001

Dear Sir:

Ref.: BZA Case No. 17139

In accordance with the Board's request, we hereby submit the enclosed elevation drawing showing the actual placement of the windows of the addition facing the neighboring adjacent property.

As Certificate of Service, I hereby also confirm that copies of the above-referenced drawing have been sent via regular mail to the following parties on April 20, 2004:

Mr. Stephen Gell, Esq., Attorney
(for Michael Sharpston)
1101 30th Street N.W. 5th Floor
Washington, D.C. 20007

Mr. John Finney
Chairperson
ANC-3D
Advisory Neighborhood Commission
P.O. Box 40846
Palisades Station
Washington, D.C. 20016

Finally, we hereby confirm that our testimony given during the BZA Hearing on April 6, 2004, constitutes our full submission and findings of fact (copies of our Opening Statement and Conclusion Statement are attached for your information).

With much appreciation for your consideration and assistance in this matter.

Sincerely,

Thomas and Linda Waltz

BZA
Case No. 17139
Exhibit No. 29

Board of Zoning Adjustment
District of Columbia
CASE NO. 17139
EXHIBIT NO. 29

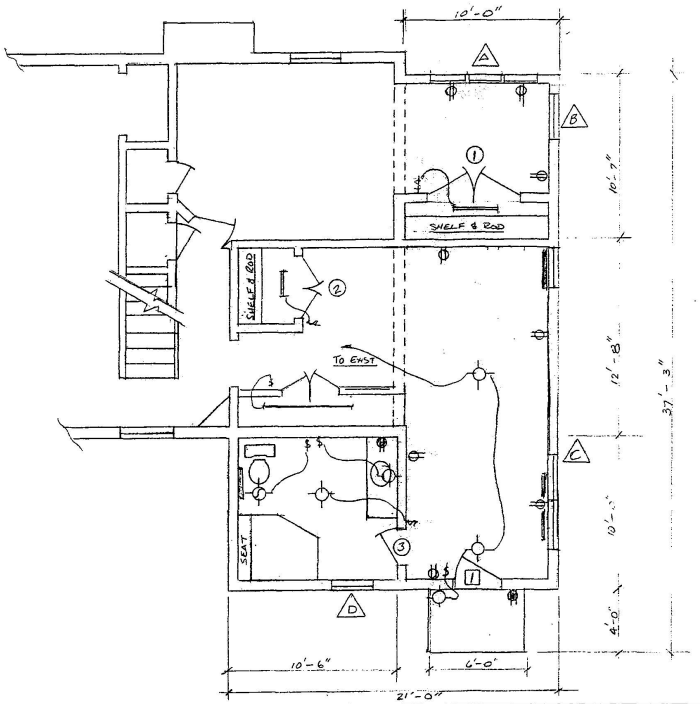
BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 17139

EXHIBIT NO. 29



PROPOSED FLOOR PLAN



LEFT SIDE ELEVATION



REAR ELEVATION

BOWMAN CONSTRUCTION CO.

SCALE: 1/4"= 1'-0"	APPROVED BY:	DRAWN BY GC
DATE: 7/12/02		REVISED

WALTZ RESIDENCE - 4529 LOWELL ST. NW

DRAWING NUMBER 2

BZA Case No. 17139

OPENING STATEMENT

We are Tom and Linda Waltz, and we are here today to request a special exception under Section 223, to allow for an addition to a single-family detached dwelling located at 4529 Lowell St. NW, built in 1927, not meeting side yard requirements under Section 405, in an R-1-B district. Since it was built prior to 1958, the side yard requirement is 5 ft. The addition meets all of the specific test requirements under Section 223. We have lived in the residence for 17 years and intend to remain for many more years.

Background

- The project plans and plat were submitted for approval in December 2002
- A Building Permit was granted in February 2003
- Construction began in May 2003
- Wall Check was commissioned in June 2003
- Wall Check was undertaken in July 2003
- Wall Check was submitted to the Office of the Surveyor in August 2003
- Plumbing and electrical work was completed, inspected and approved by December 2003
- Close-in was denied on December 12, 2003 because the Wall Check found that the side yard was only 3.1 ft., approximately 2 ft. less than required under Section 405 [Dec. 12, 2003 was the first and only date we ever received any Wall Check report on our property]
- Special exception request filed on January 30, 2004

Details in Support of a Special Exception Under Section 223

1. The light and air available to neighboring properties is not unduly affected:

- The distance between the adjacent dwellings is at least 13 ft, and the distance between the walls (excluding a chimney) of the adjacent dwellings is nearly 15 ft. The effect of the 2-foot difference on the availability of air and light to the neighboring property is not significant.
- Prior to construction, a 60 ft. tall silver maple, with a broad canopy shaded our house and the adjacent property, was removed. The tree had become seriously overgrown and a potential threat to both properties should it ever fall during a storm. Both properties face due south and now receive even more light and air today than they did prior to the addition.

2. The privacy and use and enjoyment of neighboring properties are not unduly compromised:

- The distance of at least 15 ft between opposing windows of the adjacent dwellings, including addition, affords substantial privacy to both and more than many other dwellings on the street.
- The windows were intentionally located as much out of alignment with those of the neighboring property as possible in order to enhance mutual privacy.
- Wider wall construction and heavier insulation than building specifications require prevents the possibility of any noise to the surrounding area.

3. The addition, together with the original building, as viewed from the street, alley and other public way, does not substantially visually intrude upon the character, scale and pattern of houses along the subject street frontage.

- The stucco finish of the addition blends attractively with that of the existing house, as well as others in the area.
- The addition is compatible with the surrounding neighborhood and does not create any neighborhood traffic risks or obstruction.
- There is no alley.

Finally, the lot occupancy of the dwelling, including addition, is only 24.25 percent, substantially less than the 50 percent allowed.

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CONCLUSION STATEMENT

Under DC Zoning Regulation, Section 405.9, an addition to a residential dwelling existing before May 12, 1958, is required to have a side yard of a minimum of five feet (5ft.), however, a special exception to the rule may be requested provided that certain test requirements under Section 223 are met. In this case, the owners have shown that the addition meets those requirements, and demonstrated that the addition will not have any undue affects on neighboring properties.

The light and air available to neighboring properties is not unduly affected. The distance between the adjacent neighboring property and the addition is roughly 13 feet wide and, since the addition maintains the existing dwelling setback, the affect of an additional 2 feet on the availability of light, air and privacy would not be significant. Finally, the stucco finish is the same as the existing dwelling and does not visually intrude upon the character, scale and pattern of houses on the street. The Advisory Neighborhood Commission (ANC 3-D) and the DC Office of Planning also recommend support of this special exception.

Our Neighbor's Objections

In our view, our adjacent neighbor's complaints do not rise to the level of the test requirements of Section 223 applicable to this addition, and are without merit, for the following reasons:

1. There is no legal or regulatory obligation to inform or show plans to any neighbor before submitting them in a Building Permit application
2. Had the neighbor been at home at the time, we would certainly have informed him, as a courtesy, when the construction was about to begin, since we were sensitive that there was obviously going to be some unavoidable noise and debris as the construction got underway
3. Our neighbor never informed us of his whereabouts or indicated any interest in or desire for us to communicate with him via his letterbox and a friend who occasionally picks up his mail. Surely his friend must have noticed the construction going on and could have informed him directly, in any event.
4. After the external frame and structure of the addition was completed during the summer, our neighbor commented to us in the fall that the addition was "nice" and that he "had no problem with it".
5. It was only *after* we began the process of canvassing our neighbors in pursuit of this special exception request, and informed him on February 4, 2004, that he began to voice any objections.
6. Our neighbor failed to pursue any legal or regulatory remedies in the at least 5 months or more that he was aware of the addition, and prior to our lodging this special exception request.

7. Our special exception request pertains to this specific addition. The test requirements specifically address the current addition, plans and plat, not hypothetical new additions in future; and certainly not the owner's right to pursue such under existing law at some time in the future.

Since the addition will have no undue affects on neighboring properties, we hereby respectfully request the Board's approval for a special exception to the side yard rule, under Section 405, to reduce the required side yard setback to 3 feet.

Thomas and Linda Waltz
Owners
4529 Lowell St. NW
Washington, D.C.

Enclosures: One (11 in. x 17 in.) elevation drawing
Opening Statement
Conclusion Statement