GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

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MEMORANDUM

TO: D.C. Board of Zoning Adjustment

FROM: Andrew Altman
Director

DATE: December 3, 2004

SUBJECT: BZA Application No. 17251 (Request for a Special Exception to Allow a rear two-story Addition to an existing Single-Family Residence not Meeting Rear Yard Requirements, the side yard requirements and the nonconforming provisions)

APPLICATION

Application of Paul and Frances O'Reilly, pursuant to 11 DCMR pursuant to 11 DCMR Section 3104.1, for a rear two-story addition to an existing single-family row dwelling under section 223, not meeting the rear yard requirements (section 404), the side yard requirements (section 405), and the nonconforming structure provisions (2001.3) in the R-1-B District at premises 3715 Albemarle Street, N.W. (Square 1888, Lot 48).

SUMMARY RECOMMENDATION

The Office of Planning recommends approval of this special extension to allow an addition to the rear of a single-family residence, in accordance with the provisions of Section 223.

BACKGROUND

This application involves a request for an addition on the rear of a single-family semi-detached dwelling. The Zoning Commission adopted Section 223 on February 23, 1998, in Z.C. Order No. 840 (Z.C. Case No. 97-2/94-6), to provide a remedy for applicants who wished to make reasonable additions to their homes but who could not meet the strict requirements for an area variance. In 2001, the Zoning Commission amended Section 223 to extend special exception relief to homeowners with nonconforming structures, who otherwise would have to seek a variance from the provisions of 2001.3 for their proposed additions (Zoning Commission Case No. 01-10TA, adopted by the Zoning Commission on July 12, 2001, effective on publication in the D.C Register on September 28, 2001.

BZA
Case No. 17251
Exhibit No. 23

Board of Zoning Adjustment
District of Columbia
CASE NO. 17251
EXHIBIT NO. 23

However, this case raises some issues, first because of the way it is advertised, because construction began without a permit, and because of the potential impact of the addition on the adjacent one-family semi-detached dwelling.

Section 223 reads as follows:

223 ADDITIONS TO ONE-FAMILY DWELLINGS OR FLATS (R-l)

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 applicable area requirements of §§401, 403, 404, 405, 406, and 2001.3 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.

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;

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

(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; and

(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.

223.3 The lot occupancy of the dwelling or flat, together with the addition, shall not exceed fifty percent (50%) in the R-l 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 and nearby properties.

223.5.1 This section may not be used to permit the introduction or expansion of a nonconforming use as a special exception.

The Advertising Issue

This case was advertised as follows (emphasis added in bold for the section of the advertisement that needs clarification):

> Application of Paul and Frances O'Reilly, pursuant to 11 DCMR pursuant to 11 DCMR Section 3104.1, for a rear two-story addition to an existing single-family **row** dwelling under section 223, not meeting the rear yard requirements (section 404), the side yard requirements (section 405), and the nonconforming structure provisions (2001.3) in the R-1-B District at premises 3715Albemarle Street, N.W. (Square 1888, Lot 48).

First, this is a single-family semi-detached dwelling, not a row dwelling.

Second, OP notes that the indication in the advertised notice that the addition does not meet the side yard requirement may need some explanation. On the west side of this semi-detached dwelling there is a side yard of 9.5 feet, which meets the minimum width (8 feet) of a side yard in the R-1-B District. However, on the east side where this semi-detached dwelling adjoins the adjacent semi-detached dwelling, there is a narrow space of 1.0 foot at the rear of the existing dwelling. This is where a former sleeping porch (common to all ten semi-detached dwellings in this group) is set back from the lot line. This setback is continued with the proposed new addition (the ground floor of which was built before a stop work order was issued). This appears to be a matter of an open court. However, because a single-family semi-detached dwelling is non-conforming in an R-1 District, the zoning interpretation is that a

side yard of at least 8 feet is needed. Finally, the existing lot occupancy is 35 percent. The maximum percentage of lot occupancy allowed in the R-1-B District is 40 percent. The lot occupancy with the proposed addition would be 45 percent, so relief would be needed for lot occupancy also.

It will be important for the Board of Zoning Adjustment to have a clear picture of the relief that is being requested in this case.

Construction without a Permit Issue

Construction of this rear addition began without a permit. DCRA issued a stop work order on January 13, 2004, which is still in effect. Work has been stopped and the part of the rear addition that was corrected without a permit (essentially the first floor) is now covered with plastic covering awaiting a decision in this case.

Relief Needed

In this case, the application does not comply with Section 404, "Rear Yards", the requirements for a side yard (Section 405), the lot occupancy requirement (Section 403.2) and the issue of a single-family semi-detached dwelling being non-conforming in an R-1-B District.

SITE AND AREA DESCRIPTION

This application is for a two-story rear addition to a single-family semi-detached dwelling at 3715 Albemarle Street, N.W. (Square 1888, Lot 48). As can be seen from the Zoning and Land Use Map (Attachment 1), Square 1888 is in a residential neighborhood (North Cleveland Park). Square 1888 is bordered on the east by Reno Road, on the south by Albemarle Street, on the west by 38th Street, and on the north by Appleton Street, N.W. Much of the area is zoned R-1-B. However, there is an R-2 area on the south side of Albemarle Street (see Attachment 1). The map also indicates the overall land use pattern in this area (Square 1888 and surrounding squares). Most of the residential buildings in the area are single-family detached dwellings. However, on the north side of Albemarle Street are five pairs of single-family detached dwellings (ten dwellings in all), including 3715 Albemarle Street.

The dwelling that is the subject of this application is the western dwelling of the fourth pair of semi-detached dwellings from Reno Road. As indicated on the Zoning and Land Use map, there are also some other semi-detached dwellings on the south side of Albemarle Street, on the south side of Alton Place, and on the north side of Yuma Street, N.W. This is an especially convenient neighborhood since major north-south arterial streets (Connecticut Avenue, Reno Road, Nebraska Avenue and Wisconsin Avenue are nearby. The block of Albemarle Street is only about three blocks from the Tenleytown commercial area and the Tenleytown/AU Metrorail Station.

This area between Nebraska Avenue and the Connecticut Avenue corridor is indicated on the Comprehensive Plan Generalized Land Use Map as low density residential. As indicated on Attachment 1, this area is zoned R-1-B and R-2. As previously indicted, the property in this application is zoned R-1-B. As indicated in Attachment 1, property on the south side of Albemarle Street between Reno Road and 38th Street is zoned R-2.

The single-family semi-detached dwelling that is the subject of this application is on a relatively small lot (2,035 square feet). The lot is 28 feet wide and 72.68 feet in length. The plat submitted with the application indicates a front yard of 5 feet, a side yard on the west of 9.5 feet, and a rear yard of 28.38 feet (before the addition). On the east side of the dwelling, there is the narrow space (one foot wide and approximately 8 feet in length) between the lot line (where there is a fence) and the original two-story protrusion on the rear of the house that was apparently a sleeping porch. All of the group of ten semi-detached dwellings have these "sleeping porches" on the rear, all apparently built as part of the original construction. It appears that all of these sleeping porches have since been enclosed in various ways.

The proposed two-story addition would extend that narrow space another 12 feet. This semi-detached dwelling, and the other nine in this group of semi-detached dwellings, were all built in 1927. As shown on Attachment 1, this dwelling at 3715 Albemarle Street is approximately in the center of the block between Reno Road and 38th Street, N.W,

This lot size of 2,035 square feet is below the minimum lot area of 5,000 square feet now required in the R-1-B District and in fact is below the 3,000 square feet required for a one-family semidetached dwelling in an R-2 District. The reason for this relatively small lot size results from the somewhat unusual subdivision pattern of lots on the eastern portion of Square 1888. There is no east-west alley in this block (there is a north-south alley near the west end of the square). There are five groups of semi-detached dwellings on the north side of Albemarle Street (south side of Square 1888) or ten semi-detached dwellings in all. The first nine of these semi-detached dwellings extending west from Reno Road are on relatively short lots (approximately 72 feet) which means the lots on the north side of Square 1888, facing Appleton Street, N.W., are longer (152 feet) than they would have been if lots on both sides of the square had been equal in length. The only exception to this pattern is the western most semi-detached dwelling (3719 Albemarle Street) which has a lot that does extend to the center of the square.

APPLICANT'S PROPOSAL

The owner's statement of intended use indicates that the proposed addition will be used for the expansion of the exterior and semi-exterior living space on the first floor (this apparently was meant to be the second floor) as an all season porch and on the first as an all season room with screens or window panels. The application notes a medical condition that requires covered all season rooms. OP notes the addition is still an addition regardless of how heating and ventilation is handled.

The applicant proposes to add this two-story addition on the rear of the house, extending for the full width of the existing house in the rear (17.5 feet) and additional length of 12 feet. There is a basement under the addition that has been constructed. As previously noted, the first floor of the addition was constructed before a stop work order was issued by DCRA. The extension to the rear reduces the rear yard from 28.38 feet to 16.38 feet, according to the plat submitted with the application. A rough measurement was made during the OP site visit that indicated a rear yard of just over 20 feet. The reason for this discrepancy is not clear. The owner indicated that an accurate survey would be made.

The applicant's statement indicates the belief "that privacy of use and enjoyment of the neighboring properties will not be compromised by the proposed addition" and that the proposed addition will not affect the character, scale, and pattern of the houses along the street frontage.

ANALYSIS

The Office of Planning has reviewed the plans and visited the site in order to evaluate the requirements outlined in Section 223. These are discussed below.

223 ADDITIONS TO ONE-FAMILY DWELLINGS OR FLATS (R-l)

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 applicable area requirements of §§401, 403, 404, 405, 406, and 2001.3 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.

This section allows the Board to approve an addition to a one-family dwelling when it does not comply with certain requirements, and to allow an expansion of a non-conforming use, subject to the provisions of Section 223. In this case, the addition will not comply with the rear yard requirement of 25 feet as outlined in Section 404. The proposed addition is non-conforming by just under nine feet in terms of the rear yard (i.e. it extends 8.62 feet into the 25 foot required rear yard area, according to the plat submitted with the application). Note that if the applicant's survey indicates the rear yard is actually deeper than shown on the drawing submitted with the application, the amount of non-conformity would be somewhat less. The addition is also non-conforming in terms of the side yard to the east and the addition is non-conforming in terms of lot occupancy (45 percent lot occupancy where only 40 percent is allowed).

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

In order to understand potential affects, OP has looked at the relationship of the proposed addition to the dwellings to the west, to the north and to the east.

In terms of the relationship to the single-family semi-detached dwelling to the west (3717 Albemarle Street), OP does not believe the addition would have a significant adverse affect on that dwelling. The applicant's property has a 9.5 foot side yard on the west and the adjacent property has a similar side yard on its east, providing a overall space of 19 feet between the two dwellings. Both houses have windows in the side wall on the 9.5 foot side yard. The applicant's proposed addition would have two windows and a door on the first floor and two windows on the second floor. This does not seem to be a significant change from the existing pattern of windows now facing the adjoining dwelling.

In terms of the relationship of the proposed addition to the two single-family detached dwellings to the north (3722 and 3724 Appleton Street), OP does not believe there is a significant adverse impact. Indeed, the effect would be minimal to none. As previously noted, the houses on Appleton Street have deep lots so there is significant distance between the proposed addition and the houses to the north. This is relationship is especially clear in Attachment 3, the oblique view looking north. The deep lot to the

north has significant trees, brushes and landscaping which act to block the view from the proposed addition to the houses to the north (see photograph). In addition, as indicated on Attachment 2, there is an elevation change of over a meter (probably about 5 feet) from the back of the applicant's existing dwelling to the back of the single family detached dwellings which face on Appleton Street. At least in this case, with the deep lots to the north, OP does not believe the intrusion of the proposed addition into the rear yard would have a major adverse effect on the properties to the north.



View 1: View of Rear Yard of 3715 Albemarle Street, N.W. looking north, showing existing trees and landscaping in the deep yard to the north.

In terms of the relationship of the proposed addition to the adjacent single-family semi-detached house to the east (3713 Albemarle Street, N.W.), OP believes there are some issues. The applicant has submitted a view of the rear of the dwelling before the addition was begun. Views 2 and 3 in this report show the partially completed addition as it exists today, with work stopped and covered with plastic sheeting. The proposed addition, which when completed will be two stories high (approximately 21 feet high) would extend 12 feet north of the rear of the "twin" single-family semi-detached dwelling to the east and be separated from the lot line by one foot. There would not be a privacy problem with this addition because there would be no windows in the wall of the addition facing the property to the south. The narrow one-foot space between the existing dwelling and the fence would be extended another 12 feet, requiring special efforts for cleaning leaves and debris.

In terms of light and air, there would be some effect on the light reaching the back of the adjacent one-family semi-detached dwelling (3713 Albemarle Street), and part of the yard of that adjacent dwelling, especially in the late afternoon. The issue is whether this addition would unduly affect the light reaching this adjacent dwelling. OP believes that this addition could be allowed.



View 2: View of rear of 3715 Albemarle Street, N.W., looking south from the back yard, showing the partially built addition on the rear of the existing semi-detached dwelling. The back of 3713 Albemarle Street is to the left.



View 3: View of rear of 3715 Albemarle Street, N.W., showing adjacent semi-detached residence and partially completed addition. The rear of 3713 Albemarle Street to the east is also seen, as well as the rear of the other two semi-detached dwellings to the east.

Section 223.2(c) states that "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". View 4 shows the west side of 3715 Albemarle Street, including the partially constructed addition (covered by blue plastic wrap) as seen from Albemarle Street. Views 5 and 6 indicate the character of this row of five groups of single-family semi-detached dwellings along the north side of Albemarle Street. The Office of Planning does not believe that the proposed addition would substantially visually intrude upon the character, scale and pattern of this row of semi-detached dwellings as seen from the street. There is not an east-west alley through the center of the square, so there is not a direct alley view where the addition would be seen.



View 4: View of west side of 3715 Albemarle Street, as seen from the street, showing partly constructed addition on the rear (covered with blue plastic).



View 5: View of front of 3715 Albemarle Street, N.W. looking east toward Reno Road. In this view, 3715 Albemarle Street is in the foreground (gray façade).



View 6: View of 3715 Albemarle Street, N.W. and adjacent semi-detached dwelling, 3713 Albemarle Street, looking west. In this view, 3713 is in the foreground (brown façade) and 3715 Albemarle Street is attached to it (gray façade).

(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 owners have submitted plans and photographs that show the relationship of the proposed addition to adjacent buildings and views from public ways.

The Office of Planning has submitted additional photographs with this report to illustrate the relationship of the addition to adjacent buildings and views from public ways (Albemarle Street).

223.4 The lot occupancy of the dwelling or flat, together with the addition, shall not exceed fifty percent 1(50%) in the R-1 and R-2 districts or seventy percent (70%) in the R-3, R-4 and R-5 Districts.

The existing lot occupancy is 35 percent. With the proposed addition, lot occupancy would be 45 percent.

223.4.1 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 and nearby properties.

There are already fences on both sides of the rear yard of the applicant's property. OP does not believe that additional screening is needed.

223.5 This section may not be used to permit the introduction or expansion of a nonconforming use as a special exception.

A single-family semi-detached dwelling is a non-conforming structure in the R-1-B District. In this case, the residential use, and the non-conforming structure, is being expanded.

In summary, the Office of Planning believes the rear addition to the semi-detached, single family dwelling at 3715 Albemarle Street, N.W., as proposed by the applicant, meets the requirements for a special exception under Section 223.

ANC AND COMMUNITY GROUPS

At ANC-3F's publicly announced meeting on Monday, November 15, 2004, ANC 3F voted 6-0-0 to urge the BZA to deny BZA Application 17251 for a special exception for an addition to the rear of the residence of Paul and Frances O'Reilly at 3715 Albemarle Street, N.W. and requested that the addition be torn down. The opposition of ANC 3F is indicated in a resolution (Resolution 04-23).

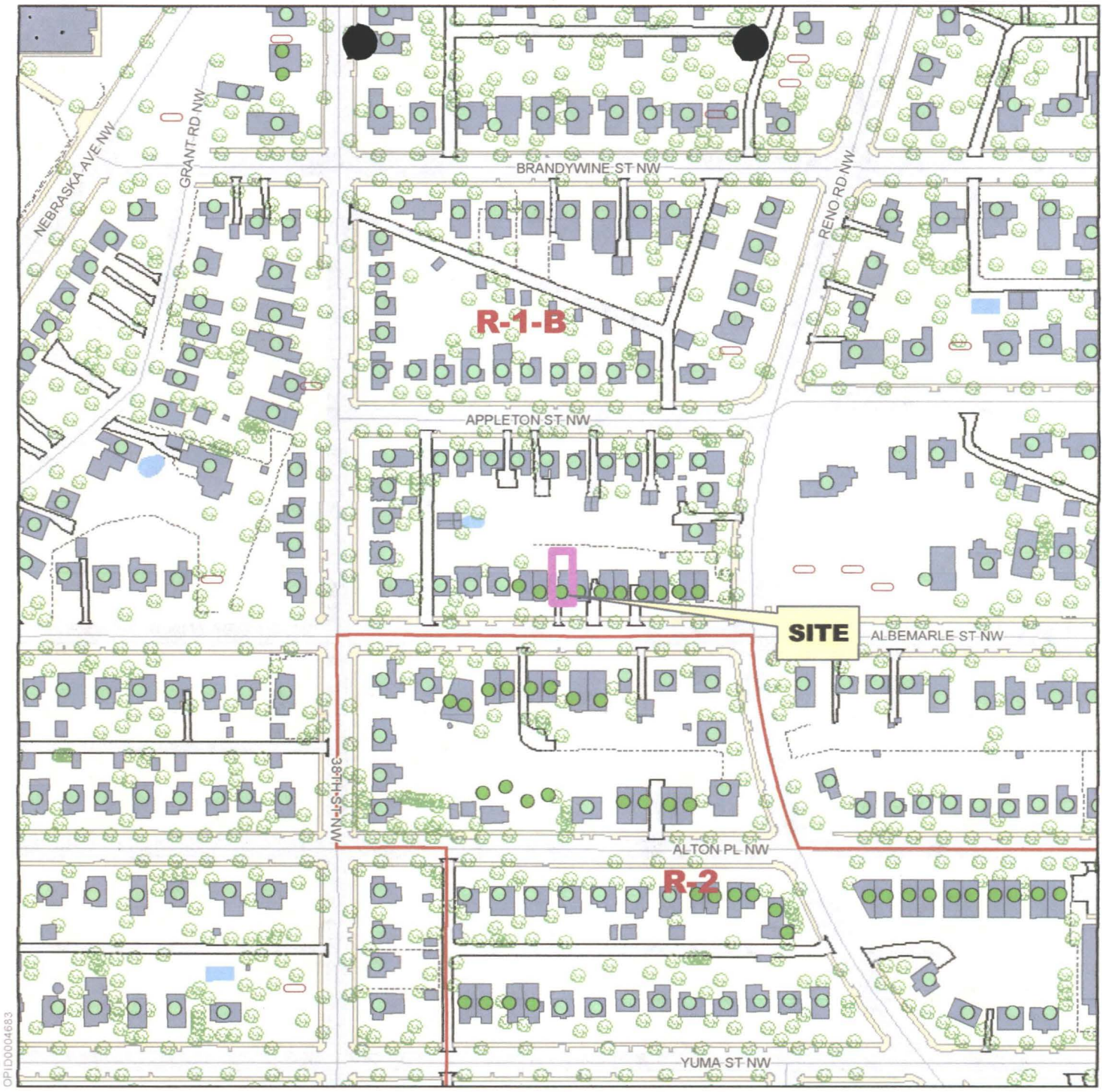
RECOMMENDATION

The Office of Planning recommends that the Board of Zoning Adjustment approve a special exception to allow an addition to the rear of the single-family semi-detached residence at 3715 Albermarle Street, N.W.

Attachments

1. Zoning and Land Use Map
2. Aerial View of Site Area
3. Oblique Photo View Looking North
4. Oblique Photo View Looking South

AA/jf



Zoning and Land Use Map
BZA Application #17251
3715 Albemarle Street, N.W.

N

Feet

0 100 200 300

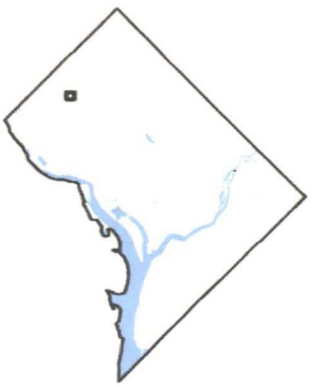
Land Use Legend

- Rowhouse
- Single-Family Detached
- Single-Family Semi-Detached
- Vacant
- Alleys and Parking

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Anthony A. Williams, Mayor

Office of Planning ~ November 19, 2004

This map was created for planning purposes from a variety of sources. It is neither a survey nor a legal document. Information provided by other agencies should be verified with them where appropriate.



Attachment 1



BZA CASE # 17251
3715 Albermarle Street, N.W..
Aerial View of Site Area

N

Feet

0 25 50 75

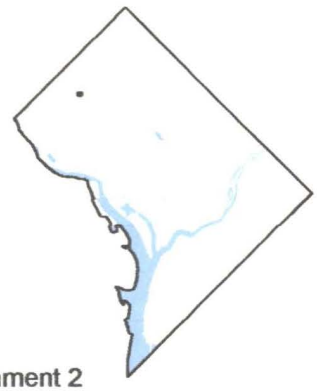
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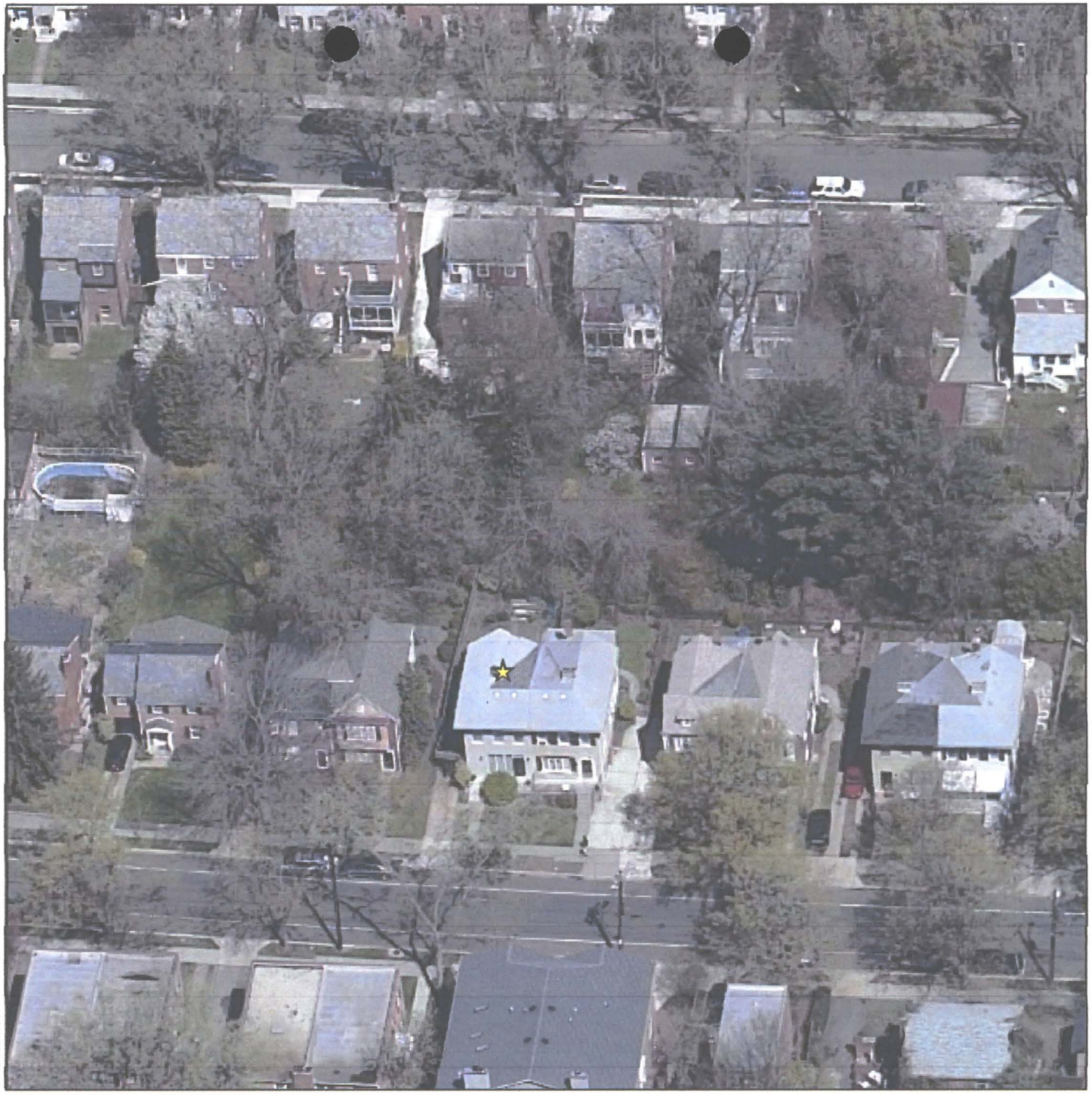
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Elevation Contours - 1m

Zoning Districts



Attachment 2



OPID0004565

BZA CASE # 17251
3715 Albemarle Street, N.W.
Oblique Photo View Looking North

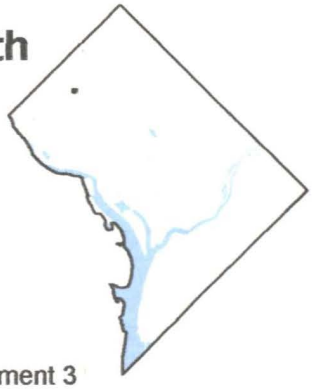
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☆ Subject Site



Attachment 3

Office of Planning ~ November 19, 2004

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BZA CASE # 17251
3715 Albemarle Street, N.W.
Oblique Photo View Looking South

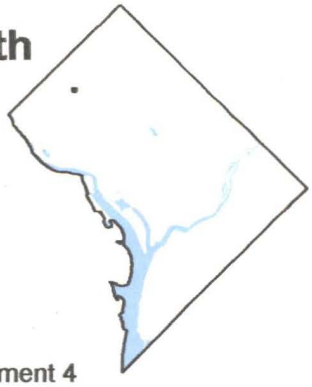
N

Feet

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☆ Subject Site



Attachment 4

Office of Planning ~ November 19, 2004

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