GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment

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Application No. 17319 of William J. McKeever, pursuant to 11 DCMR § 3104.1, for a special exception to allow a rear addition to an existing single-family row dwelling under section 223, not meeting the court (section 406) requirement in the DC/R-5-B District at premises 1723 Riggs Place, N.W. (Square 153, Lot 104).[1]

HEARING DATE: May 10, 2005
DECISION DATE: June 7, 2005

DECISION AND ORDER

This self-certified application was submitted March 10, 2005 by the owner of the property that is the subject of the application, William J. McKeever ("Applicant"). The application, as amended, requested special exception approval, pursuant to 11 DCMR § 223, to allow construction of a one-story addition at the rear of the first floor of a row dwelling located in the DC/R-5-B district at premises 1723 Riggs Place, N.W. (Square 153, Lot 104).

Following a hearing on May 10, 2005 and a public meeting on June 7, 2005, the Board voted 4-1-0 to approve the application.

PRELIMINARY MATTERS:

Notice of Application and Notice of Hearing. By memoranda dated March 11, 2005, the Office of Zoning provided notice of the application to the Office of Planning, the Department of Transportation, the Councilmember for Ward 2, Advisory Neighborhood Commission ("ANC") 2B, and Single Member District/ANC 2B01. Pursuant to 11 DCMR § 3113.13, on March 17, 2005 the Office of Zoning mailed letters or memoranda providing notice of the hearing to the Applicant, ANC 2B, and owners of property within 200 feet of the subject property.

Requests for Party Status. ANC 2B was automatically a party in this proceeding. The Board received untimely requests for party status in opposition to the application from Norma Zane Chaplain, Robert Murphy, Ralph Redford, Margaret Roggensack, Monica Yin, and Volker Zinser, who all reside in the 1700 block of Riggs Place N.W. The Board granted party status to the group of neighbors, represented by Volker Zinser.

Applicant's Case. The Applicant, represented by architect William G. Middleton, stated that the special exception was needed to allow construction of a one-story addition at the rear of a

[1] The caption previously used for this application indicated that the subject property did not meet the requirements applicable to side yards (§ 405) or courts (§ 406). However, no side yard is required in the R-5-B zone, and none is provided at the subject property, which is improved with a row dwelling. Accordingly, no relief from the side yard requirements was necessary in this case.

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single-family row dwelling. The Applicant asserted that the small addition would not substantially affect the use or enjoyment of any abutting or adjacent dwelling or property, including with respect to the light, air, and privacy of use and enjoyment, or visually intrude on the character, scale, or pattern of neighboring houses.

Government Reports. By memorandum dated April 21, 2005, the Office of Planning ("OP") recommended approval of the requested special exception. According to OP, the proposed one-story rear addition would comply with the requirements for special exception relief, would be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps, and would not tend to affect the use of neighboring property adversely.

By memorandum to the Applicant dated May 13, 2005, the Office of Planning's Historic Preservation Office ("HPO") indicated that the Applicant's proposed one-story rear addition would be "a modest and reasonable expansion of the property" that raised "no preservation concerns." HPO noted that the addition would be barely visible from the public alley due to its recess within the side courtyard of the row dwelling and its location behind a rear-yard privacy fence.

ANC Report. By letter dated April 29, 2005, ANC 2B indicated that, at a regular public meeting on April 13, 2005 with a quorum present, the ANC voted 7-0-2 to support the application for a special exception allowing construction of the first-floor addition at the subject property.

Party in Opposition to the Application. The party in opposition presented testimony from several residents of the 1700 block of Riggs Place who stated generally that the proposed addition would detract from the historic character of the block by visually intruding on the character, scale, and pattern of houses in a row of dwellings all designed by the same architect, and would diminish the light, air, and privacy currently enjoyed by neighboring properties.

Persons in Opposition to the Application. The Board received approximately 10 letters in opposition to the application, most from residents of the 1700 block of Riggs Place. The letters generally asserted that the proposed additions would damage the architectural integrity of the entire row of houses on the north side of the 1700 block of Riggs Place, deprive surrounding residences of light and air, and "set a dangerous precedent for expansion into an already congested area of alleyway" at the rear of the subject property.

FINDINGS OF FACT
The Subject Property

1. The subject property is located at 1723 Riggs Place, N.W. (Square 153, Lot 104), on the north side of Riggs Place between New Hampshire Avenue and 18th Street in the Dupont Circle area of Ward 2. The site is improved with a three and a half story row dwelling built circa 1890.

2. The subject property has a lot area of 1,674 square feet and a lot width of 18 feet. An open court at the rear of the property, along the eastern property line, is approximately 18 feet long and ranges in width from 4.2 to 5.7 feet.

3. The lot occupancy of the subject property is currently 61.9 percent and will increase to 63.3 percent as a result of the proposed addition. Thus, the lot occupancy of the subject property, including the addition, will not exceed the maximum of 70 percent permitted pursuant to 11 DCMR § 223.3.

4. The subject property has a rear yard of 23.8 feet, in excess of the minimum requirement of 15 feet.

5. A public alley, 12 feet wide, provides access to the rear of the subject property. Parking for one vehicle is provided in the rear yard, which is enclosed by a six-foot privacy fence.

6. The subject property is zoned DC/R-5-B. The purpose of the Dupont Circle overlay district includes to require a scale of development consistent with the nature and character of the Dupont Circle area in height and bulk; protect the integrity of buildings that contribute to the historic districts within the overlay zone; enhance the residential character of the area by maintaining existing residential uses and controlling the scale, location, and density of commercial and residential development; ensure compatibility of development with the Comprehensive Plan; and preserve areas planned as open gardens and backyards and protect the light, air, and privacy that they provide. 11 DCMR § 1501.4.

7. The subject property is located within a historic district. The Historic Preservation Office of the Office of Planning indicated no concerns regarding the proposed addition.

The Applicant's Project

8. The Applicant proposes to enclose a portion of the court with a one-story addition approximately 10 feet high and 24 square feet in area (4.2 feet by 5.7 feet) to expand the kitchen area of the row dwelling. The remaining court will be 14 feet long and approximately 4 feet wide.

9. The addition will be constructed of glass and stucco, with views onto the rear yard at the subject property.

10. The addition will not be visible from the row dwelling to the west of the subject property and, due to its small size and lack of windows facing east, will have only a minimal impact on the row dwelling to the east. The addition will not be easily visible from the alley due to the fence at the rear of the property.

11. The Board credits the testimony of the Office of Planning that the small proposed addition, designed to be residential in appearance, will not unduly affect light and air available to neighboring properties or unduly compromise the privacy of their use and

enjoyment, and will not substantially visually intrude on the character, scale, and pattern of houses along the street frontage.

12. The Board also credits the testimony of the Office of Planning that the proposed addition will be in conformance with the purposes of the Dupont Circle overlay district in that the addition will be of a scale consistent with the nature of the overlay district for height and bulk, will enhance the residential character of the area by maintaining an existing residential use, will be compatible with the Comprehensive Plan by preserving and enhancing an existing residential neighborhood, and will preserve a rear yard in excess of the minimum depth required and protect light, air, and privacy.

CONCLUSIONS OF LAW

The Applicant seeks a special exception under section 223 pursuant to 11 DCMR § 3104.1 to allow construction of a one-story addition on the rear of a single-family row dwelling in the DC/R-5-B zone. The Board is authorized to grant special exceptions where, in the Board's judgment, a special exception would be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and would not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps. D.C. Official Code § 6-641.07(g)(2) (2001); 11 DCMR § 3104. Pursuant to § 223, the Board may permit, by special exception approval, an addition to a one-family dwelling that does not comply with requirements pertaining to minimum lot dimension, lot occupancy, rear and side yards, courts, and nonconforming structures, subject to the conditions enumerated in section 223. The Applicant's property does not comply with requirements pertaining to courts.

Court. Pursuant to 11 DCMR § 406.1, where an open court is provided for a one-family dwelling located in the R-5-B district, the court must be at least 6 feet wide. The entire open court at the subject property will be 4.2 feet wide after a slightly wider portion (5.7 feet in width) is enclosed by the Applicant's planned addition.

§ 223 Provisions. The Applicant seeks approval of an addition to a one-family row dwelling that does not comply with requirements pertaining to courts. The Board may grant such approval as a special exception subject to the provisions enumerated in § 223. The provisions include that the proposed addition must not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, and in particular (a) the light and air available to neighboring properties must not be unduly affected; (b) the privacy of use and enjoyment of neighboring properties must not be unduly compromised; and (c) the addition, together with the original building, as viewed from the street, alley, and other public way, must not substantially visually intrude upon the character, scale and pattern of houses along the subject street frontage. 11 DCMR § 223.2.

The Board credits the testimony of the Office of Planning in concluding that the Applicant's proposed addition is consistent with the requirements for special exception approval under section 223. The Board is not persuaded by the testimony of the party in opposition that the planned addition would detract from the historic character of the block by visually intruding on

the character, scale, and pattern of the row dwellings, or diminish the light, air, and privacy of neighboring properties.

The planned addition will not unduly affect the availability of light or air to neighboring properties, given its small size and its location on the first floor at the interior edge of a court at the rear of the subject property. The addition will not compromise the privacy of use and enjoyment of neighboring properties, in part because the addition will be barely visible from any neighboring dwelling or from the alley at the rear of the subject property. Similarly, the addition will not visually intrude on the character, scale, or pattern of houses along the street frontage. The one-story addition will enclose a portion of a court at the rear of existing dwelling, and will not be visible from the street.

Approval of this application will not permit the introduction or expansion of a nonconforming use, in violation of 11 DCMR § 223.5. Rather, the Applicant's planned addition will be devoted to single-family residential use, which is a principal purpose of the Residence zone.

The Board also credits the testimony of OP in concluding that the requested special exception is in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and would not tend to affect adversely the use of neighboring property. The planned addition will continue and improve the use of the subject property as a single-family dwelling.

Based on the findings of fact, and having given great weight to the recommendations of the Office of Planning and to the issues and concerns of ANC 2B, the Board concludes that the Applicant has satisfied the burden of proof with respect to the application for a special exception to allow construction of a one-story addition to the rear of a single-family row dwelling in a DC/R-5-B zone.

Accordingly, it is therefore **ORDERED** that the application is **GRANTED**.

VOTE: **4-1-0** (Geoffrey H. Griffis, Curtis L. Etherly, Jr., John A. Mann II and Kevin Hildebrand (by absentee vote) to approve; Ruthanne G. Miller opposed).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
Each concurring Board member approved the issuance of this order.

ATTESTED BY: _____
JERRILY R. KRESS, FAIA
Director, Office of Zoning

FINAL DATE OFORDER: FEB 01 2006

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

Government of the District of Columbia
BOARD OF ZONING ADJUSTMENT

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BZA APPLICATION NO. 17319

As Director of the Office of Zoning, I hereby certify and attest that on FEB 01 2006 a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

William G. Middleton, Architect
1715 Pine Street
Philadelphia, Pennsylvania 19103

William McKeever
1723 Riggs Place, N.W.
Washington, D.C. 20009

Volker Zinser, Architect
1735 Riggs Place, N.W.
Washington, D.C. 20009, on behalf of the following parties in opposition:

Norma Zane Chaplain
1721 Riggs Place, N.W.
Washington, D.C. 20009

Ralph H. Redford
1729 Riggs Place, N.W.
Washington, D.C. 20009

Margaret E. Roggensack
1727 Riggs Place, N.W.
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Monica M. Yin
1719 Riggs Place, N.W.
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Robert T. Murphy
1731 Riggs Place, N.W.

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Chairperson
Advisory Neighborhood Commission 2B
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rsn

ATTESTED BY:

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Director, Office of Zoning