GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

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**MEMORANDUM**

**TO:** Board of Zoning Adjustment

**FROM:** Ellen McCarthy, Director

**DATE** July 12, 2005

**SUBJECT:** BZA Application 17353 – 440 Warner Street N.W.

**APPLICATION**
An application by Thomas Cutler, pursuant to 11 DCMR §3104 for a special exception under Section 223 for an addition to a residence not meeting the lot area, lot width, and lot occupancy requirements in an R-4 zone district as well as a special exception from the roof structure setback requirements of section 400.7 to allow a roof deck and stairway roof access.

**SUMMARY RECOMMENDATION**
The Office of Planning **recommends approval** of the special exception from the lot area, lot width, and lot occupancy requirements in accordance with the provisions of Section 223 as well as from §400.7 to allow the roof addition to the property.

**SITE AND AREA DESCRIPTION**
The subject property is located at 440 Warner Street N.W., Square 509, Lot 170. The subject property is on the south side of Warner Street between 5th Street on the west and New Jersey Avenue on the east. The property is developed with a two-story flat on the end of a series of row homes. The surrounding area is zoned R-4 and consists mainly of row houses.

**PROJECT DESCRIPTION**
The applicant is proposing a roof deck with a penthouse for stairway access. The property is non-conforming, not meeting the required 1,800 square feet of lot area, the required 18 feet of lot width, or the maximum 60% lot occupancy. The addition will not increase any of these nonconformities. The property is sixteen feet wide and the stairway penthouse will be located on the center of the roof. The addition will be eleven feet above the roof of the structure and will have adequate setback from the front and the rear, but not from either side. The setback will be 2.33 feet from the west and 2.75 feet from the east.

BZA
Case No. 17353
Exhibit No. 24

Board of Zoning Adjustment
District of Columbia
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**Figure 1 – Site Area**

## ZONING REQUIREMENTS

The applicant is requesting a special exception from the lot area, lot width, and lot occupancy requirements, to allow an addition to a nonconforming structure devoted to conforming use. An exception is also required from the roof structure setback provisions of §400.7.

| Section | Item | Allowed/Required | Provided | Requested | Deviation |
|---|---|---|---|---|---|
| 401.3 | Lot Area | 1,800 sq feet (minimum) | 1,591 sq feet | N/A | -208 sq feet |
| 401.3 | Lot Width | 18 feet (minimum) | 16.75 feet | N/A | -1.75 feet |
| 405.9 | Lot Occupancy | 70% (by special exception) | 69.6% | 69.6% | N/A |
| 400.1 | Height | 40' | 21.5' | 32.75' | N/A |
| 404.1 | Rear Yard | 20' | 23.1 | 23.1 | N/A |




**Figure 2: Aerial View Looking South**

**SPECIAL EXCEPTION RELIEF**

Relief may be granted from the requirements of §§401 and 405 under Section 223, provided the lot occupancy does not exceed 70% in the R-4 districts. As proposed, the addition will not expand the overall lot occupancy beyond the 70% maximum.

The proposed addition must satisfy the standards as identified in §223.2 as follows:

(a) *The light and air available to neighboring properties shall not be unduly affected.*

The deck will be on the roof of the existing home. The stairway access will only be visible from the alley and the properties to the west. There will be no affect on the light and air on the properties to the south and east. The properties to the west may be partially shaded in the morning, but the penthouse is only nine feet in width and should have a minimal impact.

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

While the proposed deck will have a view of the neighboring yards to the south and west, the privacy will not be compromised any more than by the existing windows on the top story of this and neighboring houses. There should be no affect on the use and enjoyment of any 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 proposed addition will not be visible from directly in front of the building and will only have a narrow view corridor from Warner Street. The character and pattern of the street will not be affected by the proposal.

(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 architectural drawings, photos, and a site plan showing the relationship of the proposed addition to adjacent buildings and views from public ways.

**COMMUNITY COMMENTS**

The property is under the jurisdiction of ANC 2C. OP has received no report from the ANC and is aware of no neighborhood support or opposition to the project.

**CONCLUSION**

The Office of Planning concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3104.1 and Section 223 of the Zoning Regulations, for the granting of a special exception to permit the expansion of a nonconforming structure to include a roof deck and stairway access. The request can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the Zoning Regulations.

The Office of Planning **recommends approval** of the special exceptions by the Board of Zoning Adjustment to allow the roof deck and stairway penthouse at 440 Warner Street N.W.