

Burden of Proof

The existing single-family, detached building at 4510 Davenport Street NW, which dates from 1932 (per DC History Quest), conforms to the current DCMR 11 Zoning Regulations for the R-1-B zone district in all respects except the Minimum Lot Width which is 44 ft. instead of the currently required 50 ft. Presumably the lot width was conforming when the subdivision was platted in 1931 (the 1931 plat of subdivision is included as an exhibit).

This project proposes a small (71 SF) addition comprised of a two-story elevator shaft and a one-story ground floor vestibule addition in the west side yard of the existing house, which would reduce the existing 9 ft. side yard to 3.2 ft. along the entire 12 ft. length of the addition.

DCMR 11, Subtitle D, Chapter 2 GENERAL DEVELOPMENT STANDARDS FOR RESIDENTIAL HOUSE (R) ZONES, Section 208 SIDE YARD states:

208.2

Two (2) **side yards**, each a minimum of eight feet (8 ft.) in width, shall be provided for all detached buildings.

Thus, zoning relief is needed to reduce the required 8 ft. west side yard to 3.2 ft.

1. The Board of Zoning Adjustment is authorized generally to provide this relief:

DCMR 11, Subtitle X GENERAL REGULATIONS, CHAPTER 9 SPECIAL EXCEPTIONS sets out the standards for Special Exception relief:

901 SPECIAL EXCEPTION REVIEW STANDARDS

901.1

The Board of Zoning Adjustment will evaluate and either approve or deny a special exception application according to the standards of this section.

901.2

The Board of Zoning Adjustment is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2), to grant special exceptions, as provided in this title, where, in the judgment of the Board of Zoning Adjustment, the special exceptions:

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- (a) Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;
- (b) Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and
- (c) Will meet such special conditions as may be specified in this title.

901.3

The applicant for a special exception shall have the full burden to prove no undue adverse impact and shall demonstrate such through evidence in the public record. If no evidence is presented in opposition to the case, the applicant shall not be relieved of this responsibility.

901.4

The Board of Zoning Adjustment may impose requirements pertaining to design, appearance, size, signs, screening, landscaping, lighting, building materials, or other requirements it deems necessary to protect adjacent or nearby property, or to ensure compliance with the intent of the Zoning Regulations.

901.5

The Board of Zoning Adjustment may impose a term limit on a special exception use when it determines that a subsequent evaluation of the actual impact of the use on neighboring properties is appropriate, but shall consider the reasonable impacts and expectations of the applicant in doing so.

2. The Board of Zoning Adjustment is authorized specifically to provide this Side Yard relief:

DCMR 11, Subtitle D Section 5201 SPECIAL EXCEPTION RELIEF FROM CERTAIN REQUIRED DEVELOPMENT STANDARDS, has the following relevant requirements and standards for Special Exception relief (bolded item (b) is applicable to this application):

DCMR 11, Subtitle D Section 5201.1:

For an addition to a principal residential building with one (1) principal dwelling unit on a non-alley lot or for a new principal residential building on a substandard non-alley record lot as described by Subtitle C § 301.1, the Board of Zoning Adjustment may grant relief from the following development standards of this subtitle as a special exception, subject to the provisions of this section and the general special exception criteria at Subtitle X, Chapter 9:

- a) Lot occupancy subject to the following table, TABLE D § 5201.1(a)
- b) Yards, including alley centerline setback;
- (c) Pervious surface

3. The relief requested must meet the following conditions:

DCMR 11, Subtitle D Section 5201.4:

An application for special exception relief under this section shall demonstrate that the proposed addition, new principal building, or accessory structure shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, specifically (*with applicant's comments following each section in italics*):

- a) The light and air available to neighboring properties shall not be unduly affected; The addition which is not very large, does not unduly affect the light and air available to neighboring properties. The only impacted property is the adjacent property to the west at 4512 Davenport Street and the two owners have written a letter support for this project.
- b) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised; *The addition does not unduly compromise the privacy of use and enjoyment of neighboring properties; the only impacted property is the adjacent property to the west at 4512 Davenport Street and the two owners have written a letter support for the project.*
- c) The proposed addition or accessory structure, together with the original building, or the new principal 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 or alley frontage; *The addition is made up of two parts - a two-story tower, approximately 6 ft. square that extends to the eave line of the existing roof with a decorative railing that mimics the front porch railing and a one-story ground floor vestibule also approximately 6 ft. square, The addition has wood trim and a stucco finish to match the existing housemate. Thus, the addition does not substantially visually intrude upon the character, scale, and pattern of houses along the street or alley frontage.*
- 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, new building, or accessory structure to adjacent buildings and views from public ways. *Photographs and complete set of architectural drawings are included with the application.*

In summary, per the sections above, the Board has the authority to grant Special Exception relief from the requirements of DCMR 11, Subtitle D, Chapter 2 GENERAL DEVELOPMENT STANDARDS FOR RESIDENTIAL HOUSE (R) ZONES, Section 208 SIDE YARD. We believe that the project meets the Burden of Proof for the Special Exception relief need for this project as it amply meets the conditions needed for such relief.

We therefore request that this relief be granted by the Board of Zoning Adjustment.

Thank you.