**MEMORANDUM**

TO: Board of Zoning Adjustment

FROM:  Jennifer Steingasser, Deputy Director for Development Review & Historic Preservation

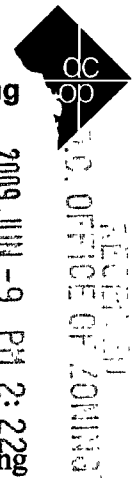
DATE: June 9, 2009

SUBJECT: Waiver of Rules for Late Submittal of a Report concerning Zoning Commission Case Number 09-07, a Proposed Zoning Map Amendment to Establish an R-4 Zoning on Property Located at 2269 Cathedral Avenue, NW (Sq 2210 Lot 803); and 09-07A, Section 223 Relief from Lot Occupancy, Court Width and Side Yard Setback Requirements

The attached revised report, concerning an application from Scott and Kristen Franklin, to establish zoning on the referenced property pursuant to Title 11 of the District of Columbia Municipal Regulations (DCMR), Zoning, and requesting a Special Exception under Section 223.1 to allow a proposed addition with nonconforming rear and side yards, and a nonconforming open court, is submitted less than 10 days prior to the Zoning Commission Public Hearing. The Office of Planning respectfully requests that the Commission waive its rule and accept the report into the record.

ZONING COMMISSION
District of Columbia

CASE NO. 09-07
EXHIBIT NO. 22

**MEMORANDUM**

TO: District of Columbia Zoning Commission

FROM:  Jennifer Steingasser, Deputy Director for Development Review & Historic Preservation

DATE: June 8, 2009

SUBJECT: Final Report on Zoning Commission Case Number 09-07, a Proposed Zoning Map Amendment to Establish an R-4 Zoning on Property Located at 2269 Cathedral Avenue, NW (Sq 2210 Lot 803); and 09-07A, Section 223 Relief from Lot Occupancy, Court Width and Side Yard Setback Requirements

I. BACKGROUND

Scott and Kristen Franklin, the applicants, filed a petition to establish R-5-D zoning on their un-zoned property. The Office of Planning recommended R-4 zoning, in the alternative, as being more consistent with adjacent zoning, land uses and the 2006 District of Columbia Comprehensive Plan. The Zoning Commission, at its April 27, 2009, meeting, voted to set down the proposed R-5-D zoning with R-4 in the alternative; and advised the applicants that they should consider, concurrently, filing a request for special exception relief in accordance with the provisions of § 223.

The applicants subsequently submitted the following supplemental documents:

- A special exception application dated May 10, 2009, requesting relief under § 223 (Case 09-07A).
- A letter dated May 13, 2009, withdrawing the request for the R-5-D district on the property.

In light of the applicant's action withdrawing the request for R-5-D, the OP analysis that follows is predicated on the establishment of R-4 zoning.

II. RECOMMENDATION

The Office of Planning (OP) recommends:

- approval of R-4 zoning on the subject property; and
- approval of special exception relief per § 223 of the regulations to: reduce the rear yard setback to 2.5 feet; reduce the eastern side yard setback to 0 feet; reduce the required open court width to 7.5 feet; and increase the allowable lot occupancy to 47% for construction of the proposed two-story addition.

III. SITE AND AREA DESCRIPTION

The subject 5,822 square-foot (0.13 acre) property is shaped like an irregular pentagon with the longest (southern) boundary fronting Cathedral Avenue, NW. Hawthorne Street right-of-way borders the western boundary and there is no adjacent alley. The property is developed with a 2.5-story detached one-family wood-frame dwelling and free-standing two-car garage, both with a stucco finish. A driveway directly from Cathedral Avenue provides vehicular access to the garage. The property perimeter is landscaped with mature street and shrubbery. There is a tall coated chain-link fence on the adjacent Federal lands adjacent to the shared boundaries.

Abutting the property to the north, northeast and east are Federal lands consisting of lot 802 and a large tract thickly-wooded tract occupied by the Smithsonian National Zoological Park and Rock Creek Park. Properties to the south across Cathedral Avenue are developed with one-family detached and semi-detached dwellings, and properties to the west across the Hawthorn Street right-of-way are developed with medium-density residential buildings (please refer to Exhibit 1).

IV. ZONING ANALYSIS

Zoning Context

The subject property, and the Federal lands to the north, northwest and east are unzoned. Residential properties to the south are in an R-4 district. Properties to the west across the Hawthorn Street right-of-way are in an R-5-D district. The subject property and properties to the south and west also fall within the Woodley Park Historic District (please refer to Exhibits 1 and 2).

Characteristics of the referenced zone districts are outlined below:

District	Predominant Use	Allowable Maximum		
		FAR	Height	Allowable Lot Occupancy %
R-4	Moderate density residential (detached and semi-detached dwellings)	No maximum	40 feet, 3 stories	40 % (one-family dwelling)
R-5-D	Medium-high density residential with compatible institutional and semi-public buildings	3.5	90 feet, unlimited stories	75%

Comprehensive Plan

The 2006 Comprehensive Plan Future Land Use Map designates the subject residential property for Parks, Recreation and Open Space, while residential properties to the northwest, south and west are designated for Moderate Density residential uses (refer to Exhibit 3).

Designation of the subject property for recreation purposes on the Future Land Use Map would appear to be an oversight. In light of the property being privately owned and apparently in continuous use as a private residence since the 1900's, establishing residence zoning on this residential property would be reasonable.

OP recently initiated the first round of updates to the 2006 Comprehensive Plan, and will

recommend that the land use designation of this property be corrected to Moderate Density Residential, in conformance with the current use and the designation of adjacent residential property across Cathedral Avenue.

R-4 zoning would be consistent with the Moderate Density designation and would also further the following Comprehensive Plan principals and policies:

- Land Use Element

“The critical land use issues facing the District of Columbia are addressed in this element (including): ...

- *Promoting neighborhood conservation...*
- *Directing growth and new development to achieve economic vitality while minimizing adverse impacts on residential areas and open space [300.2].”*

- Conservation of Single Family Neighborhoods (Policy LU-2.1.5):

“Protect and conserve the District’s stable, low density neighborhoods and ensure that their zoning reflects their established low density character. Carefully manage the development of vacant land and the alteration of existing structures in and adjacent to single family neighborhoods in order to protect low density character, preserve open space, and maintain neighborhood scale [309.10].”

- Neighborhood Conservation (Policy RCW-1.1.1):

“Protect the low density, stable residential neighborhoods west of Rock Creek Park and recognize the contribution they make to the character, economy, and fiscal stability of the District of Columbia. Future development in both residential and commercial areas must be carefully managed to address infrastructure constraints and protect and enhance the existing scale, function, and character of these neighborhoods [2308.2].”

V. SPECIAL EXCEPTION ANALYSIS

Proposal

The applicants plan to construct a two-story addition that would infill and connect the existing dwelling and free-standing garage to form a single structure. The additional 509 square feet would increase the current lot occupancy by 227 square feet to 46.3%, reduce the eastern side yard to 0 feet, and form an open court 7.5 feet wide opening onto Cathedral Avenue, NW. A new fence would also be erected around the property perimeter.

Zoning Context

One-family dwellings are permitted as principal uses in R-4 as a matter-of-right per § 330.5 of the Zoning Regulations. Below is a comparison of the subject property and existing dwelling with other provisions of the regulations based on the zoning computation submitted with this application:

Standard	R-4 Requirement	Subject Property	Proposed Development	Relief Required?
Minimum Lot Area (§401.3)	3,000 s.f.	5,822 s.f.	Same	No
Minimum Lot Width (§401.3)	30 ft.	219.6 ft.	Same	No
Height (§400.1)	40 ft.- 3 stories	32.5 ft.-3 stories	Same	No
Lot Occupancy (§403.2)	40%	42.2%	46.3%	Yes
Yard, Rear (§404.1)	20 ft.	2.5 ft.	2.5 ft.	Yes
Yard, Side (§§405.1, 405.9)	8 ft.	0.7 ft. (east) 31 ft. (west)	0.0 ft.	Yes
Open Court (§401.3)	10.8 ft. (4 in./vertical ft., min. 6 ft.)	--	7.5 ft.	Yes

Based on this information, the existing development does not conform to the lot occupancy, rear and side yard requirements in the R-4 district. Section 2300.2 (a) also requires a private garage located beside the main building to set back from the side property boundary a distance equal to the required side yard. The existing accessory garage does not meet that standard. By consolidating the existing dwelling and garage, the nonconformity with § 2300.2 (a) would be eliminated. However, the rear yard setback for the addition would be 2.5 feet instead of the required 20 feet; the required 8-foot side yard setback along the eastern boundary would be further reduced to 0 feet; a nonconforming open court of only 7.5-feet wide would be formed; and the standards for additions to nonconforming structures under § 2001.3 would not be met (for example, the nonconforming rear yard setback would be extended).

Accordingly the applicant filed for special exception relief under § 223.

Compliance with §§ 223

223.1 An addition to a one-family dwelling or flat, in those Residence districts where a flat is permitted, or a new or enlarged accessory structure on the same lot as a one-family dwelling or flat, shall be permitted even though the addition or accessory structure does not comply with all of the requirements of §§ 401, 403, 404, 405, 406, and 2001.3 shall be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.

The proposed addition would consolidate the existing one-family dwelling and garage into one building. The resulting building would:

- extend the rear yard setback of 2.5 feet, that is less than the 20 feet required under § 404.1, to the addition;
- further reduce the (eastern) side yard setback from 0.7 feet to 0 feet, well below the 8 feet required under §§ 405.4 and 405.9;
- further increase the lot occupancy above the maximum 40% allowed under §403.2 to 47%¹; and

¹ for ease of administration the requested lot occupancy has been rounded up to the next full percent

- form an open court less than the 8.1 feet wide required under § 401.3.

Section 223 of the regulations allows reduction of the required side yard setback, a narrower open court, increased lot occupancy up to maximum of 70%, and expansion of a nonconforming building without meeting the standards under §2001.3, subject to special exception approval.

223.2 *The addition or accessory structure 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;*

The proposed infill addition would not affect the air and light available to neighboring (undeveloped) properties or residences across Cathedral Avenue.

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

Visibility from the first and second floors of the addition would be the same as from the first and second floors of the existing dwelling. Under this circumstance, the privacy and enjoyment of residences across Cathedral Avenue would not be compromised, nor would the use and enjoyment of adjacent heavily-wooded Federal lands.

- (c) *The addition or accessory structure, 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 would be visible from Cathedral Avenue but would appear to be an extension of the existing dwelling. In addition, the subject property is located within the Woodley Park Historic District and is considered a contributing building. The proposed addition is therefore subject to additional review to determine whether it is consistent with the purposes of the historic district (refer to the Agency Reviews section below).

Therefore, the proposed addition will not visually intrude on the character, scale and pattern of houses along the street.

- (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 or accessory structure to adjacent buildings and views from public ways.*

Sufficient graphical documentation has been provided.

223.3 The lot occupancy of all new and existing structures on the lot shall not exceed fifty percent (50%) in the R-1 and R-2 Districts or seventy percent (70%) in the R-3, R-4, and R-5 Districts (emphasis added).

As noted above, the proposed addition would increase the lot occupancy to 37%, less than the maximum 70% allowed under this regulation with special exception approval.

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.

No special treatment is recommended.

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

This proposal would expand an existing, legally nonconforming residential structure in a Residence district.

Based on this information, this application meets the standards for special exception approval.

VI. COMMISSION OF FINE ARTS REVIEW

Because of this site's proximity to Federal lands, this addition is subject to review by the Commission of Fine Arts. The design of the addition was reviewed and approved in concept by the Commission on May 21, 2009. Note that the Commission also approved a proposed fence that is not shown on the submitted plans.

VII. AGENCY REVIEWS

Although the DC Office of Historic Preservation (OHP) has not conducted a formal review, OHP staff indicates that a review by the Historic Preservation Review Board will not be required, and that no concerns are raised by the proposal.

No other agency comments have been added to the record file.

VIII. COMMUNITY COMMENTS

This proposal was forward to Advisory Neighborhood Commission (ANC) 3B for its consideration. To date no final recommendation has been entered into the case file.

IX. CONCLUSION AND RECOMMENDATION

In light of the above analysis, OP recommends:

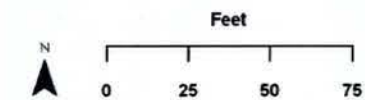
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JS/afj

Attachments: Exhibit 1 Aerial Map with Zoning
Exhibit 2 View to the South
Exhibit 3 Future Land Use Designations



Zoning Commission Application No. 09-07
Square 2210 Lot 803



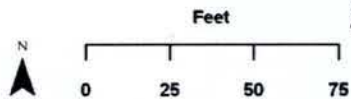

**Government of the
District of Columbia**
Adrian M. Fenty, Mayor

Office of Planning ~ April 17, 2009

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**Zoning Commission Application No. 09-07
2269 Cathedral Avenue, N.W.**

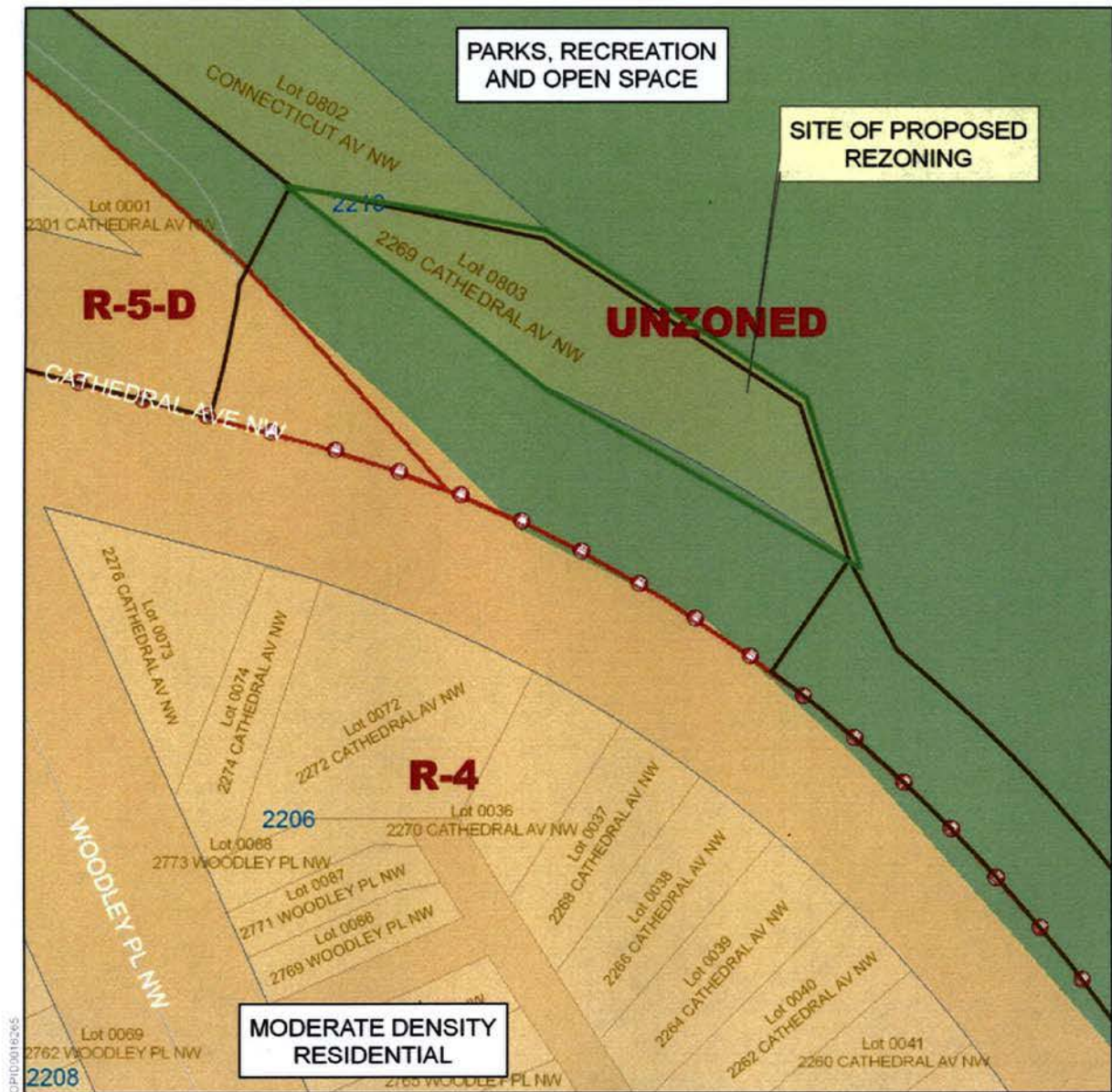


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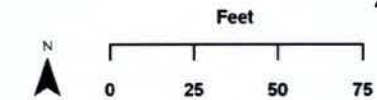
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* approximation of the existing property boundary



Zoning Commission Application No. 09-07
2269 Cathedral Avenue, N.W.



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