



August 24, 2022

BZA Case Number: BZATmp2203

Property Address: 4704 46th Street, NW, Washington, DC, 20016

Owners: Jeremy L. Pelofsky

Re: Burden of Proof Statement

Description of Proposed Project:

The original detached single-family house on the property was built in 1938. The single car-one story garage was built around 1961 per an Office of Surveyor plat. The current owners purchased the property in 2014 and have maintained the footprint of the original two story (w/ basement) house.

The homeowners would like to build a 15.35 ft x 20.64 ft two story (on crawl space) addition to better meet their current family needs. The scope of the project includes a new kitchen on main floor and new bedroom and hall bathroom on second floor.

This property is located in the R, Residential (Single Dwelling) zoning district. Its principal use, defined by Subtitle B § 200.2 (aa) is Residential. The proposed use remains unchanged.

Applied Zoning Special Exception Relief Evidence:

(1) Conforming Structure to Nonconforming Structure Relief (Conforming addition pushes previously conforming existing garage into required rear yard creating nonconforming condition): The original Zoning Regulations and Zoning Maps took into effect as of May 12, 1958 (Subtitle A § 100.1). The main house was built in 1932 before the zoning regulations were implemented. Garage built under 1958 zoning and complies w/ 2016 rear yard regulation.

However, the proposed rear addition and required rear yard pushes garage into the required rear yard creating and nonconforming condition.

The garage becomes a nonconforming structure per (Subtitle D § 5004.1.a).

Enlargement and modernization of an existing conforming structure, including structural alterations, is permissible per Subtitle D § 205.3.

Special Exception Relief (Existing Garage Encroaching in Required Rear Yard):

a. The proposed special exception relief meets the criteria set forth in Subtitle X § 901.2 in order for the Board of Zoning Adjustments to grant a special exception:

- i. The proposed addition is in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map.
- ii. The proposed addition does not affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps: and
- iii. The proposed addition meets all special conditions specified in this title.

b. Per Subtitle D § 5201.4, the proposed addition does not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property:

- i. The light and air available to neighboring properties shall not be unduly affected;
On the north side, proposed addition aligns with main house maintaining the current distance & air flow (approx. 10feet) from adjacent neighbor. On the south side, addition is setback from main house 12.33 feet and approximately 22 feet from adjacent neighbor maintaining

the current air flow. See site plan. Light: The two story addition roofline is approx.. 9 feet lower than either adjacent neighbors roofs. See exterior west elevation.

Landscaping on northside neighbor will block any view of proposed addition and maintain current light conditions. Due to addition south side setback distance...no adverse light impact to southside neighbor.

Privacy: the proposed addition of the rear of existing house project beyond the northside neighbors home. No windows are proposed on first floor. Only one bedroom window (matching size of existing windows) proposed (see north elevation) and does not align with or look into adjacent northside neighbor windows. Given the 22 foot distance to southside neighbor house, addition windows do not align with or directly look into southside neighbor windows. (See south elevation & photos A & D).

In summary, due to addition size, location and height, light and air to adjacent neighbor is adversely affected.

- ii. The privacy of use and enjoyment of neighboring properties shall not be unduly compromised; *Given addition size, massing and setback from side(s) and rear property lines, the use & enjoyment of adjacent neighbors is not unduly compromised.*
 - iii. The proposed 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. *The proposed addition, located on rear face of existing home, will not be seen from 46th street and has no impact on 46th streetscape. Alley View: addition is set 45.33 feet from rear alley. The two-story addition with shallow pitched roof has brick exterior consistent in scale & materials seen in neighborhood. The design of addition complements existing architectural character of home. See west elevation and photo F.*
 - iv. In demonstrating compliance with paragraph (a), (b), and (c) of this subsection, graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the proposed addition, to adjacent building and views from public ways are included in the application.
- c. No trees with a circumference of 12in or greater will be removed, cut down, or fatally damaged with the increase in the building footprint as outlined in Subtitle C § 401.
 - d. *The minimum pervious surface percentage for R-1-B zones is 50% (Subtitle D § 308.1). The pervious surface percentage with the addition is 51% (2,041 SF pervious surface).*
 - e. The proposed design of the addition is mindful of the scale and character of the neighborhood and aligns with the intent of the provisions set for general R zones and specifically for R-1-B zones (Subtitle D § 100.2 & Subtitle D § 300.1).
 - f. R-1-B zones are intended for the development of detached houses on lots with a minimum of 5000SF (Subtitle D § 300.2). Unlike most of the neighboring lot sizes (averaging above 5,000SF or more), the lot size of the existing property is only 4,000SF (See “Zoning Map”).
 - g. Lot minimum lot width for R-1-B (Subtitle D § 302.1) is 50 ft. The existing lot is 40 ft wide or 20% smaller on average to the development standards.
 - h. The maximum percentage of lot occupancy for R-1-B zones is 40% (Subtitle D § 304.1). The existing structure has maximized its allowable percentage of lot occupancy. The proposed addition will increase the percentage of lot occupancy to 34.7%.
 - i. Accessory Structure (Garage): Per Subtitle D § 306.1, the minimum rear yard setback is 25 feet. Accessory structures maybe located within the rear yard; but not in the required rear yard per Subtitle D § 5004.1(a). The existing garage currently conforms as it is 30.25 ft from the rear face of main structure....well beyond the 25 ft rear yard requirement.
The propose addition off the rear face of main structure moves the required rear yard farther back such that the existing garage now encroaches into the required rear yard.
The existing garage will encroach into required rear yard 10.19 ft. feet, making the rear yard setback to 14.83 ft.
The decrease in the yard setback is within development standards permitted by the Board of Zoning Adjustments to grant a special exception per Subtitle D § 5201.1(b).
 - j. The homeowners would like to modify their home to adapt to their changing needs as they grow older. As part of their desire to age in place, they would like all their main living spaces to be isolated to the first floor. The proposed increase in the footprint by 252 SF is a critical part in achieving their goal.

- k. The maximum permitted building height for R-1-B zones is 40FT (Subtitle D § 303.1). The height of the existing structure is *29.75 feet*. The proposed addition is *21.0 feet* will not impact the maximum height requirement.