

Burden of Proof Statement

**Special Exception for 2918 Upton St. NW, Square 2235, Lot 0086**

To: The Office of Zoning  
Government of the District of Columbia  
Suite 210 South  
441 4<sup>th</sup> St. NW  
Washington, DC

From: Theresa Roosevelt, owner and DC attorney and Robert O’Loughlin, owner  
2918 Upton St. NW  
Washington, DC 20008

Date: 9/26/2023

BZA application for rear addition to  
2918 Upton St. NW  
Washington, DC 20008  
Owners: Theresa Roosevelt and Robert O’Loughlin

The owners are requesting a special exception pursuant to Title 11, subtitle D, 207.4:

Notwithstanding Subtitle D §§ 207.1 to 207.3, a rear wall of a row or [semi-detached building](#) shall not be constructed to extend farther than ten feet (10 ft.) beyond the farthest rear wall of any adjoining principal residential [building](#) on any adjacent property.

As per Title 11, subtitle D 207.5 and Under Title 11, subtitle X, 900.2 and 900.3 Subtitle D 5201.4 and Subtitle X 901.2 addressed below.

207.3

Notwithstanding Subtitle D §§ 207.1 and 207.2, a rear wall of a row or [semi-detached building](#) shall not be constructed to extend farther than ten feet (10 ft.) beyond the farthest rear wall of any adjoining principal residential [building](#) on any adjacent property.

207.4

A rear wall of a row or [semi-detached building](#) may be constructed to extend farther than ten feet (10 ft.) beyond the farthest rear wall of any adjoining principal [residential building](#) on any adjacent property if approved as a special exception pursuant to Subtitle X, Chapter 9, and subject to Subtitle D § 5201 if applicable.

207.5

A rear wall of a row or semi-detached building may be constructed to extend farther than ten feet (10 ft.) beyond the farthest rear wall of any adjoining principal

residential building on any adjacent property if approved by the Board of Zoning Adjustment as a special exception pursuant to Subtitle X, Chapter 9, and subject to Subtitle D § 5201 if applicable.

#### 900.2

The [Board of Zoning Adjustment](#) is authorized to grant special exceptions, as provided in this title, where, in the judgment of the Board of Zoning Adjustment, the requested special exception meets the standards of Subtitle X § 901 and any specific conditions specified in this subtitle.

#### 900.3

In the case of a use that was originally permitted and lawfully established as a matter-of-right and for which the Zoning Regulations now require special exception approval from the [Board of Zoning Adjustment](#), any extension or enlargement of that use shall require special exception approval from the Board of Zoning Adjustment.

#### Summary:

The special exception is requested under Title 11, subtitle D 207.4 and Title 11, subtitle X, 900.2 and 900.3.

The proposed rear addition will extend 15' past the existing structure. The proposed project consists of a 2 story, 15' x 19.3' W rear addition and a 10' deck, to an existing semidetached single-family home in an R-2 district. The owners will be substituting an existing 11' covered patio with a 15' addition. The addition is within all other setbacks and lot occupancy regulations as per calculations listed below. Prior to the Zoning changes of 2016 this addition would have not required a special exception. The property's attached neighbor received a Special Exception for an addition that will align with this addition on Feb. 17, 2022 in BZA Order 20618. It will be filed into the record.

#### 5201.4 Special Exception Review standards

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:

1. (a)The light and air available to neighboring properties shall not be unduly affected;
2. (b)The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;
3. (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; and
4. (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.

#### Subtitle D 5201.4

1. a) Light and air to neighboring properties shall not be affected:

2918 Upton - Western exposure: The sun will not affect the townhouses to the West (the larger Wardman townhouses) as they already project further and have 3 stories.

Southern exposure: The addition will not affect the southern exposure of any neighbor. Shadows will not overlap the property line.

The adjoining semidetached house on the east: 2916 Upton, will not be affected by shadows. This neighbor has also received a Special Exception to add to the rear.

2. b) The privacy of use and enjoyment shall not be compromised.

All the houses on the block have deep fenced yards with varying rear additions.

3. c) The proposed addition, together with the original building will not visually intrude upon the character, scale and pattern of houses along the alley frontage  
All the houses have varying additions consisting of 2 story and 3 story.

4. d) A solar Study has been included into the file.

Photos of the existing house and surroundings, plans, elevations and surveyors plat have also been included.

#### Subtitle X 901.2

1. a) The addition will be in harmony with the intent of Zoning Regulations.

The addition keeps to the character and size of the block. The proposed addition will be constructed with high quality materials and appropriate scale to the existing houses.

2. b) The addition will not affect adversely the use of neighboring property.

The addition projects to the rear and has no windows facing the adjacent property on its East side. It currently has windows facing West and the addition will have 3 windows facing West, however the properties are separated by approx. 9' space in between.

The proposed project consist of a 2 story, 15'x19.3' rear addition and a 10' deck, to an existing semidetached single-family home in an R-2 district.

Existing Property Conditions:

The property is mostly rectangle, having an area of 2217 SF  
The house has footprint of 749 SF + 181 SF covered patio = 930 SF  
The house has a side yard of 8.11 ft.  
It has a front setback of 27.7 ft., and a rear yard of 88.50 ft.

R-2 requirements are as follows:

Minimum lot area: 3000 SF  
Minimum lot width: 30 ft.  
Maximum lot occupancy: 40%  
Max. height: 40 ft.  
Minimum rear yard: 20 ft.  
Min. pervious surface: 30%

Proposed property conditions:

Addition footprint: 285 SF  
Total footprint: 1038 SF plus 193 SF deck  
Lot occupancy: 28 %  
Height: 35'  
Rear yard: 63.5 ft.  
Pervious surface: 56%

Addition footprint: 289 SF.  
Total footprint: 1038 SF.  
Rear yard: 63.5 ft.

If you require any further information or have any questions regarding the application, please feel free to contact me.

Thank you.

Theresa Roosevelt, owner and DC Attorney and Robert O'Loughlin, owner

Owners are requesting a special exception from zoning code section D-207.3 - D-207.4 under Title 11, subtitle X, 900.3. "In the case of a use that was originally permitted and lawfully established as a matter of right and for which the Zoning Regulations now require special exception approval from the board of Zoning Adjustment, any extension or enlargement of that use shall require special exception approval from the board of Zoning Adjustment."