

Burden of Proof

The current attached building, which dates from 1859 with a three story porch addition constructed in the early 20th century and renovated numerous times since, does not conform to current zoning regulations for the Percentage of Lot Occupancy in a R-20 zone district which is established as 60% for an attached single-family dwelling. The Percentage of Lot Occupancy of the existing building is 68.13% (non-conforming). This project proposes a small (33.2 SF) rear three-story addition, which would raise the Percent of Lot Occupancy to 70.0%. This is an increase of 1.87% over the existing Percent of Lot Occupancy and an overall increase of 10% over the allowable matter-of-right Percent of Lot Occupancy for an attached dwelling in an R-20 zone district.

Accordingly:

- Since the Percentage of Lot Occupancy exceeds the maximum allowable amount, zoning relief is needed from Section D 1204.1, and
- Since the existing building is a Non-Conforming Structure due to Percentage of Lot Occupancy and the non-conforming structure condition is being increased by the proposed addition, zoning relief is needed from Section C 202.2

The Zoning Regulations provide for Special Exception relief for both of the above conditions as stated below (bolded items (a) and (f) are applicable to this case):

Section 5201.1 The Board of Zoning Adjustment may approve as a special exception in the R zones relief from the following development standards of this subtitle, subject to the provisions of this section and the general special exception criteria at Subtitle X, Chapter 9:

(a) Lot occupancy;

(b) Yards;

(c) Courts;

(d) Minimum lot dimensions;

(e) Pervious surface; and

(f) The limitations on enlargements or additions to nonconforming structures as set forth in Subtitle C § 202.2.

Percent of Lot Occupancy up to a maximum of 70% for attached buildings in an R-20 zone, as long as the following conditions are met (*with applicant's comments following each condition in italics*):

Section D-5201

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

The addition does not unduly affect the light and air available to neighboring properties. there is no opposition from either neighboring property.

- (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; there is no opposition from either neighboring property.

- (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 addition has been reviewed and approved by the Old Georgetown Board; please see transmittal letter at the end of this document.

- (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; and

This application contains photographs and complete set of architectural drawings. The addition is barely visible from public ways.

- (e) The Board of Zoning Adjustment may approve lot occupancy of all new and existing structures on the lot as specified in the following table:

The requested Lot Occupancy on this application is 70.0% and falls within the Board's authority to approve as it is not greater than the 70% Maximum Lot Occupancy permitted under this section, per Table 5201.3

TABLE D § 5201.3: MAXIMUM PERMITTED LOT OCCUPANCY

Zone	Maximum Lot Occupancy
R-3 R-13 R-17	70%
R-20 – attached dwellings only	70%
R-20 – detached and semi-detached dwellings All Other R zones	50%

5201.4 The Board of Zoning Adjustment 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.

5201.5 This section may not be used to permit the introduction or expansion of a nonconforming use as a special exception.

5201.6 This section shall not be used to permit the introduction or expansion of nonconforming height or number of stories as a special exception.

In summary, the project meets the Burden of Proof for both Special Exceptions for this project. Per the sections above, the Board has the authority to grant Special Exception relief from the requirements of both Section D 1204.1 and Section C 202.2.

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

Thank you.