District of Columbia
Office of Planning

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Matt Jesick, Case Manager

Joel Lawson, Associate Director Development Review

DATE: July 8, 2014

SUBJECT: BZA Case 18798 – 1425 North Carolina Avenue, NE

I. RECOMMENDATION

With regards to this proposal to build a deck, the Office of Planning (OP) recommends **approval** of the following special exception relief pursuant to § 223:

- § 403, Lot Occupancy (60% permitted, 70%, proposed);
- § 404, Rear Yard (20' required, 7.8' proposed);
- § 2001.3 (Must meet lot occupancy and must not extend existing non-conformity; exceeds lot occupancy and extends lot occupancy and rear yard non-conformities).

OP also recommends **approval** of the requested variance relief:

- § 199, Definition of Yard: no structures occupying more than 50% of a required yard; more than 50% of the required rear yard occupied.

OP's recommendation is subject to following condition of approval:

- The applicant shall erect privacy fencing on either side of the proposed deck, for the full depth of both the upper and lower deck, up to a height of at least six feet above the respective portion of the deck. The fence may be located on the deck, on the property line, or both.

II. LOCATION AND SITE DESCRIPTION

Address	1425 North Carolina Avenue, NE
Legal Description	Square 1056, Lot 94
Ward and ANC	6, 6A
Lot Characteristics	Rectangular Lot – 40' wide x 50' deep; Rear alley access
Zoning	R-4 – Rowhouses; Single family and flats
Existing Development	Two-story single family residence
Historic District	none
Adjacent Properties	Residential rowhouses to the east and west
Surrounding Neighborhood Character	Almost exclusively rowhouses

III. APPLICATION IN BRIEF

Applicant	Janet Katowitz, property owner
Proposal	Construct a deck at the rear of the house
Requested Relief	§223 - Additions to a One-Family Dwellings or Flats

IV. ZONING REQUIREMENTS

R-4	Regulation	Existing	Proposed	Relief
Height (ft.) § 400	40 ft. max. 3 stories max	Not provided (2 stories, ~ 20 – 25 ft.)	No change	Conforming
Lot Area (sf) § 401	1,800 sf min.	2,000 sf	No change	Conforming
Lot Width (ft.) § 401	18 ft. min.	40 ft.	No change	Conforming
Lot Occupancy § 403	**60% max. (1,200 sf)**	**62% (1,240 sf)**	**70% (1,400 sf)**	**Requested**
Rear Yard (ft.) § 404	**20 ft. min.**	**14.5 ft.**	**7.8 ft.**	**Requested**
Side Yard (ft.) § 405	None required	n/a	None	Conforming

R-4	Regulation	Existing	Proposed	Relief
Additions to Non-Conforming Structures § 2001.3	**Must meet lot occupancy; Not extend existing non-conformity**	**Exceeds lot occupancy**	**Extend lot occupancy, decrease rear yard**	**Requested**
Definition of "Yard" § 199	**No structure may occupy more than 50% of a required yard**	**Existing house occupies a portion of the rear yard**	**Deck + house > 50% of the rear yard; Exact % not provided**	**Requested**

V. ANALYSIS

Special Exception Analysis

223 ZONING RELIEF FOR ADDITIONS TO ONE-FAMILY DWELLINGS OR FLATS (R-1) AND FOR NEW OR ENLARGED ACCESSORY STRUCTURES

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 applicant proposes to construct a deck at the rear of the property. In order to build as proposed, the application requests special exception relief under § 223 from the requirements of § 403, Lot Occupancy, § 404, Rear Yard, and § 2001.3, Additions to Nonconforming Structures.

223.2 The addition or accessory structure shall not have a substantially adverse effect 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;

Light and air available to neighboring properties would not be unduly affected. The deck would be limited in size, especially the portion that counts toward lot occupancy and rear yard. The upper deck would closely parallel the rear wall of the house; a lower deck would be less than four feet off the ground so would therefore not count toward lot occupancy or rear yard, and would not impact adjacent dwellings.

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

The privacy of surrounding properties could potentially be compromised. The rear yards and decks of the properties on the square are all in very close proximity. In order to mitigate any potential privacy impacts, the applicant should erect privacy fencing to either side of the proposed deck. A number of other decks on the square also use fencing to protect their neighbors' and their own privacy. In this case the fencing could run along the edge of the deck, or along the property line, or both. OP recommends, as a condition of approval, that the

applicant provide privacy fencing. As of this writing the applicant has indicated general support for the use of privacy fences, but has not yet indicated specific support for the wording of OP's proposed condition.

> ***(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; and***

The construction of the deck would not alter the character of the alley. There are a number of other decks facing the alley and on the square.

> ***(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.***

The applicant has submitted elevations, floor plans and photographs that illustrate the proposed addition and its surroundings.

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.

With the proposed deck the lot occupancy would be 70%.

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.

As noted above, the Office of Planning recommends that the applicant erect privacy fencing on either sides of the deck or property lines to protect the privacy of neighbors.

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

The applicant does not propose to introduce a nonconforming use.

<u>Variance Analysis</u>

The design would require a variance from the definition of Yard in the Zoning Regulations. Normally, OP has concerns with requests to vary a definition. In this case, however, the definition includes a specific measurement and it is from this that the applicant has requested relief. In order to be granted a variance, the applicant must show that they meet the three part test described in § 3103.

1. Does the property exhibit specific uniqueness with respect to exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situations or conditions?

The property exhibits exceptional conditions. The lot is shallow at only 50 feet deep, and the rear yard, therefore, is also shallow. The existing house, in fact, already intrudes into the required rear yard, leaving a remaining yard of only 14' 6". Also, the main floor of the house is elevated over six feet above the grade at the rear of the home, with egress doors both on the main level and at the basement level. Finally, there is a parking space at the basement level.

2. Does the extraordinary or exceptional situation impose a practical difficulty which is unnecessarily burdensome to the applicant?

The exceptional conditions create a practical difficulty for the applicant. The shallow depth of the rear yard, combined with the fact that the house already occupies a portion of the required rear yard, makes it difficult to accommodate a deck of a usable size without exceeding the 50% threshold contained in the definition of "Yard". Furthermore, because of the elevation of the main level of the house and the need to maintain basement and parking access, the deck is proposed to be built with both an upper and lower level. This results in a less efficient deck and more occupancy of the rear yard. The deck could have been built all at the upper level, but such a design would have necessitated a lot occupancy variance and greater rear yard relief.

3. Can the relief be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations and Map?

The requested variance can be granted without impairing the public good. As noted above in this report, fencing should be provided to maintain the privacy of next-door neighbors. The deck could also enhance the appearance of the alley and add "eyes" on the alley to increase security. In general, a deck would be in keeping with the character of the alley, where a number of other decks are located. Relief would not impair the integrity of the Regulations. The Regulations intend to limit structures in rear yards to maintain light and air to adjacent buildings, but the proposed deck would not impact those qualities. Also, the Regulations did not intend to unduly restrict the ability of homeowners to enjoy their property, which would be the case here if relief were not granted.

VI. HISTORIC PRESERVATION

The subject site is not located in an historic district.

VII. COMMENTS OF OTHER DISTRICT AGENCIES

OP is not aware of comments from any other District agency.

VIII. COMMUNITY COMMENTS

As of this writing the Office of Planning has received no comments from the ANC or the community.