

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Stephen J. Mordfin, AICP, Case Manager
Joel Lawson, Associate Director Development Review
DATE: March 29, 2016
SUBJECT: BZA Case 17535A (3254 O Street, N.W.) for a special exception to allow an accessory apartment

I. BACKGROUND

On October 2, 2001 the BZA denied Application No. 16696, a variance to allow a second-story addition to an accessory garage for maid's quarters and a mother-in-law suite.

On November 10, 2005 the applicant withdrew Application No. 17401, an application for a special exception to allow a second floor addition to an existing accessory building by way of a structural connection, because the requested relief required an area variance and not a special exception.

On December 5, 2006 the BZA approved Application No. 17535, a special exception to allow a covered walkway addition not meeting the rear yard requirements. The Board approved the special exception request and ruled that the construction of the walkway would not result in the creation of an open court¹. The walkway was never constructed.

II. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends **approval** of the following special exception use request:

- § 202.10, Accessory Apartments

And the following special exception pursuant to § 223:

- § 223, (20-foot rear yard required, 2 feet, 9.5 inches proposed).

Subject to the following conditions:

1. The design reflect other accessory buildings along the private alley and the alley to the west, west of 33rd Street, including matching the brick, roofing colors and materials, windows and doors. Windows and doors should be painted in colors consistent with those on surrounding and nearby garage buildings; and
2. The applicant revises the drawings to indicate that the trellis connects completely with the rear door of the principal dwelling, including the stairs leading up to the rear door of the house.

¹ See BZA Order 17535, page 4, Conclusions of Law

III. LOCATION AND SITE DESCRIPTION

Address	3254 O Street, N.W.
Applicant	Mary S. Goodman
Legal Description	Square 1230, Lots 125 and 825
Ward; ANC	Ward 2; ANC 2E
Zone	R-3
Historic District	Georgetown
Lot Characteristics	Rectangular lot adjacent to a private alley ² at the rear and a small tax lot on the west side of the garage building
Existing Development	Two-story one-family detached dwelling and a one-story detached four-car garage
Adjacent Properties	North, East and West: Row and semi-detached dwellings South: Across the private alley, row houses
Surrounding Neighborhood Character	Moderate density residential
Proposed Development	Construction of a building connection between a one-family dwelling and a detached accessory garage, and the addition of a second floor to the detached garage to accommodate an accessory dwelling.

IV. ZONING REQUIREMENTS and RELIEF REQUESTED

Zone: R-3	Regulation	Existing	Proposed	Relief
Height § 400	3-story max.	2-stories	2-stories	None Required
Lot Width § 401	20 sq. ft. min	35.8 feet	35.8 feet	None Required
Lot Area § 401	4,000 sq. ft. min.	5,533 sq. ft.	5,533 sq. ft.	None Required
Lot Occupancy § 403	60% max.	35.3%	43.5%	None Required
Rear Yard § 404	20-foot min.	65 ft., 6.5 in.	2 ft., 9.5 in.	Required
Side Yard § 405	None if none provided	5 feet	None	None Required

The applicant proposes to connect a one-family detached dwelling to a detached one-story four-car garage at the rear of the property, adjacent to a private alley. The two existing structures would be connected via a trellis over a brick walkway down the center of the rear yard to an existing door into the garage, combining the house with the garage into one building. Although the trellis is proposed by the applicant to connect to existing exterior stairs at the rear of the principal dwelling to an existing back door, the plans do not show this connection completely.

² The private alley to the rear of the property is the subject of an unresolved legal dispute unrelated to the application.

The garage is proposed to be expanded slightly to the south, toward the alley, and to the west by approximately three feet to the western lot line, converting the entire structure to a row house as it would extend lot line to lot line. An accessory dwelling unit would be constructed atop the garage, with access to O Street and the private alley.

V. OFFICE OF PLANNING ANALYSIS

a. **Special Exception Relief for Additions to One-Family Dwellings or Flats 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.

Row dwellings are a permitted use in this zone. The Applicant is requesting special exception relief under § 223 from the requirements of § 404, Rear Yard.

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;*

The proposed addition would extend the rear wall of the garage toward the rear property line and private alley by less than two feet, and should not affect light and air to neighboring properties.

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

The proposed addition would extend the rear wall of the garage toward the private alley, between a detached garage to the east and a fence to the west. No windows or doors would be added facing into the rear of the adjoining property to the west. As a result the addition to the garage would be minimally visible from neighboring properties and have minimal impact on privacy.

- (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 addition to the rear would be visible from the private alley at the back of the property, from Potomac Street to the east and 33rd Street to the west. However, as it would be similar to other two-story garages lining the same private alley, it would not substantially intrude on the character, scale and pattern of houses.

- (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 submitted plans, photographs and elevations sufficient to represent the relationship of the proposed addition to adjacent buildings and from public ways.

- 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.*

The proposed lot occupancy is 43.5 percent, less than the maximum 70 percent permitted in the R-3 for row houses.

- 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.*

OP recommends the applicant ensures that the proposal reflects other accessory buildings along this private alley and the alley to the west, west of 33rd Street, including matching the brick, roofing colors and materials, and windows and doors. Windows and doors should be painted in colors consistent with those on surrounding and nearby garage buildings.

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

The subject application would not result in the introduction or expansion of a nonconforming use.

b. Special Exception Relief pursuant to § 202.10, Accessory Apartments

- i. 202.10 *An accessory apartment may be added within an existing one-family detached dwelling if approved by the Board of Zoning Adjustment as a special exception under § 3104, subject to the following provisions:*

(a) *The lot shall have a minimum lot area for the following zone Districts:*

(1) *Seven thousand, five hundred square feet (7,500 ft.²) for R-1-A;*

(2) *Five thousand square feet (5,000 ft.²) for R-1-B; and*

(3) *Four thousand square feet (4,000 ft.²) for R-2 and R-3;*

The subject property consists of 5,533 square feet, in excess of the minimum 4,000 square feet required in the R-3.

(b) *The house shall have at least two thousand square feet (2,000 ft.²) of gross floor area, exclusive of garage space;*

The gross square footage of the house is in excess of 2,000 square feet.

- (c) *The accessory apartment unit may not occupy more than twenty-five percent (25%) of the gross floor area of the house;*
The accessory apartment would consist of 22.1 percent of the gross floor area of the house.
- (d) *The new apartment may be created only through internal conversion of the house, without any additional lot occupancy or gross floor area; garage space may not be converted;*
The new apartment is proposed to be created through the construction of a second floor addition atop the existing garage, and not through the internal conversion of the house. Pursuant to § 202.10(i), the applicant is requesting a waiver to this criterion.
- (e) *If an additional entrance to the house is created, it shall not be located on a wall of the house that faces a street;*
Additional entrances are proposed to the garage portion of the structure, but none are proposed for the principal dwelling and none would face O Street.
- (f) *Either the principal dwelling or accessory apartment unit must be owner-occupied;*
The applicant would occupy either the principal dwelling or the accessory apartment.
- (g) *The aggregate number of persons that may occupy the house, including the principal dwelling and the accessory apartment combined, shall not exceed six (6);*
No more than six persons would occupy the principal dwelling and accessory apartment combined.
- (h) *An accessory apartment may not be added where a home occupation is already located on the premises; and*
No home occupation is located on the property.
- (i) *The Board may modify or waive not more than two (2) of the requirements specified in paragraphs (a) through (h) of this subsection; provided, that the following occurs:*
- (1) *The owner-occupancy requirement of paragraph (f) shall not be waived;*
 - (2) *Any modification(s) approved shall not conflict with the intent of this section to maintain a single-family residential appearance and character in the R-1, R-2, and R-3 Districts; and*
 - (3) *Any request to modify more than two (2) of the requirements of this subsection shall be deemed a request for a use variance.*

The applicant requested the waiver of two requirements for an accessory apartment. First, § 202.10 requires the apartment to be located within an existing one-family detached dwelling. Although the existing dwelling is currently a one-family detached dwelling, the applicant proposes to convert it to a row house through the construction of a trellis prior to the addition of the accessory apartment. Second, § 202.10(d) requires the accessory unit to be created through the internal conversion of the house, and not through new construction. The Board's granting of a waiver from the first requirement of the subsection, which requires accessory apartments to be located within an existing one-family detached dwelling would allow the applicant *"to establish an accessory unit which would for the most part satisfy all other provisions and which would not change the principal use of the property as a one-family residence. It would not permit the conversion to a flat, which is a different principal use from a one-family residential,"* and would not be permitted in the R-3 District.³



Existing two-story garage on south side of the private alley, across from the subject property

The existing house would continue to appear as a one-family detached dwelling, as neither the trellis nor the second floor addition atop the garage would be visible from O Street. The second-story above the garage would be visible from the private alley, 33rd Street and Potomac Street, but would not differ significantly from other alley structures within the neighborhood, including the two-story garage building directly across the private alley from the subject property, maintaining the character of the neighborhood.

ii. Is the proposal in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps?

The proposal would permit the addition of an accessory apartment to a one-family dwelling within the R-3 zone, in conformance with most of the specific criteria for

³ See Order 18232, page 5

the use. The requested waivers represent minimal areas which would not change the principal use as a one-family residential structure.

iii. Would the proposal appear to tend to affect adversely, the use of neighboring property?

The proposed accessory apartment additions should not be visible from O Street and would have no windows or doors facing the adjoining properties to the east or west, maintaining the privacy and use of neighboring properties and the existing one-family detached dwelling appearance of the property.

The subject application has not been reviewed by the Old Georgetown Board.

VI. COMMENTS OF OTHER DISTRICT AGENCIES

DDOT, in an email to OP dated March 14, 2016, indicated that it was not opposed to the application.

No other comments were received from other District agencies.

VII. COMMUNITY COMMENTS

ANC 2E, at its regularly scheduled meeting of February 29, 2016, voted to recommend that action on this application be postponed till the alley issue is resolved or that the application be denied.

Eleven residents signed a petition in opposition to the application.

One letter was submitted to the file in opposition to the application and requesting that the case be postponed till the alley issue is resolved.

Attachment: Location Map

