



MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Stephen J. Mordfin, AICP, Case Manager
 Joel Lawson, Associate Director Development Review
DATE: January 27, 2015
SUBJECT: BZA Case 18914, 240 9th Street, N.E.

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) **recommends approval** of the following area variance:

- § 2300.2 (12 feet from alley centerline required, 7.06 feet proposed).

OP **recommends approval** of the following special exception pursuant to § 223:

- § 403, Lot Occupancy (60 percent permitted, 64.3 percent proposed), provided the height of the accessory garage is reduced to conform to regulations.

(OP) **cannot recommend approval** of the following area variance:

- § 2500.4 (15 feet permitted, 18 feet proposed).

II. LOCATION AND SITE DESCRIPTION

Address	240 9 th Street, N.E.
Legal Description	Square 917, Lot 68
Ward	6A
Lot Characteristics	Rectangular lot with rear alley access
Zoning	R-4 – moderate density residential
Existing Development	Row dwelling, permitted in this zone
Historic District	Capitol Hill
Adjacent Properties	Row dwellings
Surrounding Neighborhood Character	Residential

III. APPLICATION IN BRIEF

Proposal	Construction of two-story garage with studio on second floor
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IV. ZONING REQUIREMENTS and RELIEF REQUESTED

R-4 Zone	Regulation	Existing	Proposed	Relief
Lot Width § 401	18-foot min.	15.5 feet	15.5 feet	None required
Lot Area § 401	1,800 sq. ft. min.	1,813 sq. ft.	1,813 sq. ft.	None required
Floor Area Ratio § 402	None prescribed	--	--	None required
Lot Occupancy § 403	60% max.; 70% by SE	60%	64.3%	Required
Private Garage Setback from Alley Centerline § 2300.2	12-foot min.	10 feet	7.06 feet	Required
Accessory Building Height § 2500.4	15-foot max.	9.75 feet	18 feet	Required

V. OFFICE OF PLANNING ANALYSIS

a. **Special Exception Relief pursuant to § 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.*

Row dwellings are a permitted use in this zone. The Applicant is requesting special exception relief under § 223 from the requirements of § 403, Lot Occupancy. Relief from §§ 2300.2, setback from the centerline of an alley for an accessory structure, and 2500.4, height of an accessory structure, are requested as area variances as they are not covered under the provisions of § 223.

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 garage would be located between two other existing accessory buildings on the adjacent lots to the north and south, in line with those garages and at the rear of the lot.

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

The proposed structure would have no windows or other openings on the sides and would be constructed between and adjacent to two other accessory garages. Therefore, it would not unduly compromise the use and enjoyment of neighboring properties.

- (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 accessory structure would be visible from the public alley. As a detached private garage accessory to a row dwelling, it would not substantially intrude upon the character of the alley.

- (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, elevations and photographs sufficient to represent the relationship of the proposed accessory garage.

- 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 of 64.3 percent is less than the maximum seventy percent permitted in the R-4 by special exception.

- 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.*

The Office of Planning recommends that the applicant reduce the height of the garage to no more than fifteen feet, the maximum permitted height for accessory 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. Variance Relief from § 2300.2, Private garage setback from alley centerline

i. Exceptional Situation Resulting in a Practical Difficulty

The subject property is located within a row of four houses, each improved with a detached accessory building at the rear of the lot. With the exception of the subject property, each of these accessory structures is built to the rear lot line abutting the alley, and located less than twelve feet from the centerline of the alley. Although the applicant could construct the proposed garage in conformance with the required setback from the alley centerline, the Historic Preservation Office (HPO) requested this new structure be built in line with the other garages adjacent to the subject property. The applicant is unable to build the new structure both in conformance with the Zoning Regulations and provide the consistent "alley wall".

ii. No Substantial Detriment to the Public Good

Construction of the proposed garage in line with the other existing accessory buildings would provide for consistency of the "alley wall" along this portion of the public alley, allowing the proposed building to better blend in with existing development.

iii. No Substantial Harm to the Zoning Regulations

There would be no substantial harm to the Zoning Regulations as the reduced setback from the centerline of the public alley would not impair the function of the alley or the proposed garage.

c. Variance Relief from § 2500.4, Accessory Building Height

i. Exceptional Situation Resulting in a Practical Difficulty

The subject property is located on a row house lot of similar dimensions to those around it and developed similarly with a row house. The application indicates that due to the location of utility poles within the alley a wider turning radius is required to access the garage, reducing the area available for other uses, such as space for a studio within the accessory structure. Due to the reduced area available for the studio the applicant instead proposes to increase the height of the structure to provide a full second floor to accommodate the studio. No turning radii drawings were submitted indicating the reduced area available within the garage, or how a studio could have been accommodated in the garage if it were not for the location of those utility poles. Therefore, OP does not find that there is an exceptional situation resulting in a practical difficulty.

ii. No Substantial Detriment to the Public Good

A three-foot increase in height would increase the height of the "alley wall" on this side of the alley, closing in the alley and increasing building bulk beyond that anticipated within the residential zones.

iii. No Substantial Harm to the Zoning Regulations

An increase in building height of twenty percent for an accessory building would increase the size of this accessory structure along alleys and in the rear yards of row houses beyond that anticipated by the Zoning Regulations, altering the character of this public alley.

The Historic Preservation Review Board was scheduled to review the subject application at its meeting of January 22, 2015.

VI. COMMENTS OF OTHER DISTRICT AGENCIES

DDOT, in a memorandum dated January 9, 2015, had no objected to the application.

No comments were received from other District agencies.

VII. COMMUNITY COMMENTS

ANC 6A, at its regularly scheduled meeting of January 8, 2015, voted to support the application.

Letters from the adjoining property owners to the north and south submitted letters to the file in support of the application.

Attachment: Location Map

