



## MEMORANDUM

**TO:** Board of Zoning Adjustment

**FROM:** Jennifer Steingasser, Deputy Director Development Review & Historical Preservation

**DATE:** September 7, 2010

**SUBJECT:** BZA Application 18123 – 1023 Newton Street NE

### I. SUMMARY RECOMMENDATION

The Office of Planning recommends **approval** of the special exception relief requested in accordance with § 223 to allow the attic on the existing dwelling to be replaced with a habitable third floor.

### II. SITE AND AREA DESCRIPTION

Address:	1032 Newton Street NE
Legal Description:	Square 3882 Lot 0045
Ward:	5A
Lot Characteristics:	This nearly rectangular interior lot is 25 x 150-feet (equal to 3,750 square feet) in size with frontage along Newton Street and no rear alley.
Existing Development:	Two-story row dwelling of frame construction with a porch on the front façade, a ground-floor kitchen addition on the rear façade and no parking onsite (refer to Exhibit 1).
Zoning:	R-2 – one-family detached dwellings are allowed as a matter of right.
Historic District:	None
Adjacent Properties:	Two- and two-and-one-half story semi-detached and detached dwellings.
Surrounding Neighborhood Character:	Low-density residential development.

### III. APPLICATION IN BRIEF

**Applicant:** Mary Melchoir

**Proposal:** The applicant proposed to remove the roof and construct a third floor addition.

The lot area and width are less than the 4,000 square feet and 40 feet, respectively, required in the R-2 district under § 401.3 of the current Zoning Regulations. Although the record lot for this property was created in 2000, it is legally nonconforming because the previous tax lot appears to predate the current Zoning Regulations.



The dwelling does not conform to the regulations because the 3.0-foot and 1.5-foot side yard setbacks to the east and west of the building are less than the minimum of 8 feet required under §§ 405.1 and 405.9. No other nonconforming characteristics exist or would result from the proposed addition.

Although a third floor would not change the existing nonconformities, § 2001.3 (b) (2) states that any proposed addition shall, “Neither increase or *extend* and existing nonconforming aspects of the (nonconforming) structure ...” Construction of the addition would extend the nonconforming side yard setbacks to the new third floor.

In light of this circumstance, the applicant requested zoning relief from the referenced side yard setback requirement in accordance with the provisions of § 223.

#### IV. OFFICE OF PLANNING ANALYSIS

##### Compliance with §§ 223

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.*

According to the submitted zoning computation, the lot and dwelling with the proposed addition would continue to be out of conformance with §§ 401 (lot area and width) and 405 (side yard setbacks) after the proposed construction.

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

No substantial impact on the light and air available to the neighbors.

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

The resulting visibility into neighboring properties would not appear to be greater.

(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 would not intrude on the scale of the neighborhood. However, the addition roof would appear flat from the street. This change in appearance would differ significantly from the gable over the existing attic, and the gable and hip roofs on surrounding dwellings.

(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.*

Sufficient graphical documentation has been provided.

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 existing and proposed 25% lot occupancy is less than the 40% allowed as a matter of right in the R-2 district under § 403.2.

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 addition, as proposed, would reach a height of 30 feet 11 inches. The allowable height in the R-2 district is 40 feet. Since additional height is allowed, OP suggested replacing the proposed flat roof with a hipped or gable roof so that the final structure would remain in character with the surrounding dwellings.

The applicant agreed and submitted new building elevations dated August 25, 2010 with a pitched roof. This change adequately addressed OP's concern.

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

No expansion of a nonconforming use would result under this proposal.

Based on this information, this application generally meets the standards for approval.

#### **V. COMMUNITY COMMENTS**

This application was forwarded to Advisory Neighborhood Commission (ANC) 5A for its review and comment. To date no ANC recommendation has been added to the case record file.

The applicant added a petition in favor of this addition to the public record signed by neighboring property owners and tenants.

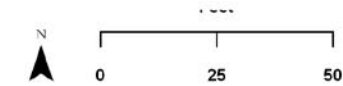
#### **VI. RECOMMENDATION**

OP supports approval of the special exception relief requested with the modified plans.

Arthur Jackson, Case Manager  
JS/afj



**BZA Application No. 18123  
1032 Newton Street NE**








★ ★ ★ Government of the  
District of Columbia  
Adrian M. Fenty, Mayor

Office of Planning ~ June 29, 2009

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**LEGEND**

-  Property Squares
-  Metro Bus Routes
-  Street Centerlines
-  Water
-  Parks