

**MEMORANDUM**

TO: District of Columbia Board of Zoning Adjustment

FROM:  Jennifer Steingasser, Deputy Director

DATE: May 3, 2011

SUBJECT: BZA Case 18205 – Request for variances to construct a dwelling on a nonconforming lot at 4209 Grant Street, NE

I. RECOMMENDATION

The Office of Planning (OP) **recommends conditional approval** of the required variance relief:

- (§401) Permit development on an existing lot with an area of 1,765 square feet where 4,000 square feet are required;
- (§401) Permit development on an existing lot with a width of 25 feet where 40 feet are required;
- (§403) Permit a lot occupancy of 50.2% where a maximum of 40% is permitted;
- (§405.9) Permit side yards of 3 and 5 feet where 8 feet are required.

OP recommends that the approval be conditioned on the following:

1. In order to minimize expense to future homeowners, the three trees along the eastern property line shall be removed.
2. Except as provided for in Condition #7, the tree at the southern end of the property shall not be removed and the parking pad shall be relocated from where it is shown on the plans to north of that tree.
3. The parking pad shall be constructed of pervious paving blocks or other durable pervious material. Gravel shall not be considered a durable pervious material unless contained within a structural form, such as Gravelpave©, designed to prevent compaction of gravel in parking areas.
4. To protect the tree at the southern end of the property during construction, secured, durable, protective fencing shall be erected around the tree along the following boundaries: Beginning at the southeastern corner of the property, then to the southwestern corner of the property, then north along the alley for 15 feet, then moving east to the eastern property line.

a. If the fencing is damaged it shall be replaced within 24 hours.

b. No excavation or storage of fill shall be permitted within the fenced area.

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18205

EXHIBIT NO. 24



- c. No vehicles shall cross the fenced area.
- d. No storage of materials shall be permitted within the fenced area.
- 5. The protective fencing may be removed once construction of the house itself is complete and the parking pad is to be installed. At no point shall heavy trucks or equipment, or the storage of materials, be permitted on the parking pad.
- 6. The applicant shall work with the DDOT Urban Forestry Administration to plant a deciduous tree in public space north of the subject property. The tree shall have a minimum caliper of two inches and shall be planted after all other construction is complete. The tree and its installation shall be paid for by the applicant.
- 7. If a certified arborist or urban forester determines that the tree at the southern end of the property should be removed because it is unlikely to survive and keeping it would pose a risk to human safety or property, that tree shall be removed and the applicant shall plant a deciduous tree on the subject property south of the proposed house. The new tree shall have a minimum caliper of two inches and shall be planted after all other construction is complete. The tree and its installation shall be paid for by the applicant.

II. LOCATION AND SITE DESCRIPTION

Address	4209 Grant Street, NE
Legal Description	Square 5092, Lot 31
Ward and ANC	7D
Lot Characteristics	Vacant, flat lot with 25' of frontage and angled rear lot line. Alley access on western side of lot. Lot has four mature trees – three along the eastern property line and one at the southern end of the site. The applicant has stated verbally that he would try to save the southern tree.
Zoning	R-2 (Semi-detached Residential)
Adjacent Properties	Single family detached houses to the east and west.
Surrounding Neighborhood Character	Significant tree canopy in the neighborhood. Mix of detached, semi-detached and row houses and small apartment buildings.

III. PROJECT DESCRIPTION IN BRIEF

Applicant	Mohammed Sikder, property owner
Proposal	Construct a detached dwelling.
Relief Required	Lot Area, Lot Width, Lot Occupancy, Side Yard

IV. ZONING REQUIREMENTS

Height	400	40' 3 Stories	36' 2" 3 Stories	Conforming
Lot Area	401	4,000 sf	1,765 sf	Requested
Lot Width	401	40'	25'	Requested
Lot Occupancy	403	40%	50.2% (886 sf) Including western side yard	Requested
Rear Yard	404	20'	22.7' (avg.)	Conforming
Side Yard	405	8'	3' – west 5' – east	Requested

V. ANALYSIS

In order to be granted a variance, the applicant must demonstrate how the property meets 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 subject property exhibits unusual features. The lot was created prior to establishment of the 1958 zoning regulations and it's width and area, at 25 feet and 1,765 square feet, respectively, are less than what would now be required. The size of the lot is limited, in part, because of the unusual angled lot behind this one. Please refer to the attached vicinity map. The subject lot appears to be one of the smallest in the square.

2. **Does the extraordinary or exceptional situation described in the first part of the variance test impose a practical difficulty which is unnecessarily burdensome to the applicant?**

The small dimensions of the lot create a practical difficulty for the applicant. The lot was created prior to the adoption of the current zoning regulations, and its width and area are smaller than would be permitted today. The lot is bounded by an alley to the west and the lot to the east is developed, eliminating any opportunity for re-subdivision to create a conforming lot. If relief is not granted, the lot would remain undevelopable, depriving the applicant reasonable economic use of the land and creating the burden of an unusable property, and potentially resulting in a derelict, unbuildable lot in the middle of a developed neighborhood.

The proposed house, if designed with eight foot yards on both sides, would be only nine feet wide. Side yard relief is required if a house of a usable width is to be constructed. The

applicant, therefore, proposes a 17-foot-wide house with one three-foot side yard and one five-foot side yard.

The applicant seeks to construct a home of a size acceptable to homeowners and characteristic of the area. This leads to a footprint that would slightly exceed the maximum lot occupancy allowed in the R-2 district, particularly since the proposed west side yard of 3 feet is required to be included in lot occupancy. (If the side yard were not counted, the lot occupancy for this site would be about 42.9%.) Creating a home with a smaller footprint and smaller rooms could make it more difficult to market the house.

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?

Relief can be granted without impairing the intent of the Regulations. While the Zoning Regulations intend to promote a specific pattern of development in the R-2 district, they did not intend to entirely prohibit the construction of a residential use on an existing lot. Furthermore, this development will replicate an historical development pattern in the neighborhood that includes detached or semi-detached homes on relatively narrow lots. Specifically in regard to lot occupancy, the Regulations, by limiting lot occupancy, intend to control the bulk of structures in residential neighborhoods. However, the Regulations do not intend to prohibit a usable footprint when that design does not impede light and air and privacy available to neighboring properties.

Nevertheless, the Office of Planning has worked with the applicant to reduce the lot occupancy of the development. The house was originally proposed as two stories. Revised plans submitted by the applicant now propose a three story house with a smaller footprint that is closer to the lot occupancy limit. Please refer to the table below. This slight deviation from the standard is acceptable given the lot size and that homes in the neighborhood are of a similar size.

	Lot Occupancy	Note
Original Two-Story Design	60.1% (1,076 sf)	Includes both side yards
Current Three-Story Design	50.2% (886 sf)	Includes one side yard

OP feels that construction of a residence on a vacant property will benefit the public by improving the appearance of this lot. Construction of a home on this lot, however, will likely result in the destruction of at least three of the four mature trees on the site – in a neighborhood that is characterized by a significant tree canopy. Removal of trees could be considered a harm to the public good. Therefore OP feels it is appropriate – when considering variances that would allow a house somewhat larger than the Regulations would normally allow, and when those variances would indirectly lead to the removal of onsite trees – to require the protection of remaining trees and the planting of new trees. Consequently, OP proposes the conditions listed at the beginning of this report in an effort to ameliorate any damage to the character of the neighborhood caused by the granting of the variances.

VI. HISTORIC PRESERVATION

The subject property is not located in an historic district.

VII. COMMENTS OF OTHER DISTRICT AGENCIES

As of this writing the Office of Planning has received no comments on this application from other District agencies.

VIII. COMMUNITY COMMENTS

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

IX. ATTACHMENTS

1. Vicinity Map and Aerial Photo

JS/mrj
Matt Jesick, Project Manager

Attachment 1 Vicinity Map and Aerial Photo



