**MEMORANDUM**

TO: District of Columbia Board of Zoning Adjustment
FROM: Arthur Jackson, Case Manager
 Joel Lawson, Associate Director Development Review
DATE: January 8, 2013
SUBJECT: BZA Case 18487 - request for variance relief from §§ 402.4, 403.2, 404.1 and 2001.3 (a) and (b) for an addition to the three-story row dwelling (flat) located at 1751 18th Street NW

I. OFFICE OF PLANNING RECOMMENDATION

The original application dated October 17, 2012, requested the variance relief from the following provisions per the direction of the Zoning Administration (ZA). On December 27, 2012, the applicant modified this application to request relief from:

- § 402.4 (increase the allowable 1.8 floor area ratio (FAR) to 2.4)
- § 403.2 (increase the allowable 60% lot occupancy to 90%),
- § 404.1 (reduce minimum required 15-foot rear yard to 1 foot), and
- § 2001.3 (for increasing existing nonconforming aspects of the building)

While the Office of Planning (OP) **cannot support** variance relief to the degree requested, OP **would not oppose** relief from the following provisions to allow infill construction of the open court on the dwelling first floor

- § 402.4 (increase the allowable 1.8 floor area ratio (FAR) to 2.0)
- § 403.2 (increase the allowable 60% lot occupancy to 81%); and
- § 404.1 (reduce minimum required 15-foot rear yard to the existing 10 feet)

However, the additional relief requested to extend the rear facades of the rear first and second floors 3-feet closer to the rear (eastern) property boundary is **not supported**

II. LOCATION AND SITE DESCRIPTION:

Address	1751 18 th Street NW
Legal Description	Square 0153, Lot 0095
Ward	2B (unchanged in 2013)
Lot Characteristics	The 18 x 52-foot rectangular interior lot with an area of 936 square feet (0.02 acre) with no rear alley access (refer to Figure 2)
Zoning	DC/R-5-B – row dwellings and flats are allowable uses in this district

BOARD OF ZONING ADJUSTMENT
 District of Columbia

CASE NO. 18487
 EXHIBIT NO. 27

Board of Zoning Adjustment
 District of Columbia

Existing Development	According to Historic Permits Database the row dwelling on the subject property was constructed in 1892. According to the Certificate of Occupancy issued in July 2012, the existing L-shaped dwelling is a flat with a basement apartment and a three-story unit above grade. The rear yard is 10-feet deep and surrounded by a gated wooden stockade fence approximately 5-feet tall. There is no onsite parking spaces and no direct access to alley 12-feet wide to the south (refer to Exhibit 1).
Historic District	Dupont Circle
Adjacent Properties	Generally similar three-story row dwellings (refer to Figure 1)

III. PROJECT DESCRIPTION IN BRIEF

Applicant	Jonathan Grossman, owner of record
Proposal:	<p>To construct a second floor addition to extend the rear wall three-foot closer to the rear boundary in order to expand the master bedroom and accommodate a bathtub, to infill the existing open court at the first floor level to expand the existing kitchen area; to extend the entire rear façade of the first floor 3-feet closer to the rear property line, and to replace the existing landing and steps into the rear yard with a metal spiral staircase.</p> <p>Construction plans for the proposed addition were initially submitted to the Department of Consumer and Regulatory Affairs for building permits. In response, the Zoning Administrator (ZA) issued a memorandum to the Board of Zoning Adjustment (BZA) dated October 15, 2012 stating that the proposed addition required variance relief from the zoning provisions referenced above. Relief is also required from § 2001.3 for an addition to a nonconforming flat in the DC/R-5-B district. More specifically the memorandum stated that</p> <ul style="list-style-type: none">• the existing lot occupancy of 81%¹ would increase to 87% although the allowable lot occupancy is 60% and• the existing 10-foot rear yard (measured from the rear façade) would decrease to 7 feet although a minimum 15 feet is required. <p>The memorandum stated the existing FAR on the property was 1.73 which would be less than the allowable 1.8 FAR. The attached zoning computation sheet indicated that the addition would increase the overall building floor area by 54 square feet. Based on this analysis the subject row dwelling would be out-of-conformance with §§ 403.2 (lot occupancy) and 404.1 (minimum rear yard).</p>

¹ Elevated skylights constructed above basement apartment in the open court are over 4-feet above grade and must be included in the building area calculation. After discussions the OP, the applicant revised the current lot occupancy with these skywalks to 79%.

	<p>Submitted floor plans and building elevations for this proposal would infill the open court <i>and</i> extend the rear façades on the first and second floors 3-feet further east. It does not appear that the extensions of the rear facade walls were captured in the original ZA referral letter. The applicant indicated to OP that the existing total floor area above grade on all three floors is actually 1,818 square feet, equal to a 1.94 FAR which <i>exceeds</i> the allowable 1.8 FAR.²</p> <p>After this case was filed, the applicant's representative contacted the ZA about errors in the original zoning computation. Following these discussions, the representative filed a supplement to the original application dated December 27, 2012 with a revised zoning computation sheet indicating that</p> <ul style="list-style-type: none"> the total proposed square footage on all floors above grade would increase to 2,215 square feet, equal to a 2.4 FAR, the proposed lot occupancy including the proposed circular stair in the rear yard would be 90%, and the remaining rear yard beyond the circular stair would equal 1 foot <p>The ZA subsequently indicated that the existing and proposed rear stairs are not included in the calculation of building area in accordance with § 2503.4. As a result the rear yard setback would be 7 feet instead of 1 foot. Relief from § 2001.3 is still required and the overall dwelling floor area increase would actually be 276 square feet.</p>
Relief Sought	Variance relief from the provisions listed above

IV. ZONING REQUIREMENTS

DC/R-5-B District	Regulation	Existing	Proposed	Relief?
Height (ft) § 400	40 ft max , 3 floors	Unknown, 3 floors	Unknown, 3 floors	Presumed conforming
Lot Width (ft) § 401	--	18 ft.	SAME	--
Lot Area (sq ft) § 401	--	936 sq ft	SAME	--
Floor Area Ratio § 402	1.80	2.03	2.40	Yes
Lot Occupancy § 403	60% max	79%	90%	Yes
Rear Yard (ft) § 404	15 feet min	10 feet	7 foot	Yes

Since the row dwelling is currently nonconforming, the proposed addition is subject to the following Zoning Regulation standards for additions to nonconforming structures

2001.3 Enlargements or additions may be made to the structure, provided

- (a) *The structure shall conform to percentage of lot occupancy requirements, except as provided in § 2001.13, and*
- (b) *The addition or enlargement itself shall*
 - (1) *Conform to use and structure requirements, and*

² The ZA subsequently indicated that the area of the elevated skylight is included in the FAR and lot occupancy calculations so the current FAR is actually 2.03

- (2) *Neither increase or extend any existing, nonconforming aspect of the structure; nor create any new nonconformity of structure and addition combined.*

OP notes, however, that approval of the required floor area, lot occupancy and rear yard variances requested in this case would make the dwelling with the additions conforming, thereby eliminating the need for relief from this provision.

V. **OP ANALYSIS:**

Variance relief from § 401.3

- **Uniqueness Resulting in a Practical Difficulty**

The application indicates that the subject property is exceptional because the lot is small and shallow, only a total of 52-feet deep and the open court limits the utility of the first floor. The explanation of how this proposal meets the first variance test concluded that filling out the L-shape would make the first floor space more useable for the family needs. The additional depth of three feet on the first and second floor would provide additional living space.

A review of the lots on Square 0153 revealed that the subject property (and the adjacent identically-sized properties at 1749 and 1753 18th Street, lots 0094 and 0096, respectively) are among the smallest lots on the square. Thus the minimal size of these lots makes them unique (refer to Figure 2). While the L-shape floor plan does not appear unique on this square, widening the rear addition could significantly enhance the practical use of the limited space.

Figure 1



While sympathetic to the applicant's issues, OP has the following concerns about this proposal:

- Based the above-referenced Certificate of Occupancy the existing dwelling has been approved for a flat use, an allowable residence use in this district for over 50 years. The requested relief is therefore not required to establish an allowable use on the subject property.
- According to DC land records, a multiple-unit residence has existed on the subject property since before 1971 so the existing dwelling limitations were evident when it was purchased.
- Based on the modified submission by the applicant, the subject property is currently developed well beyond what is allowed in the DC/R-5-B district under the Zoning Regulations.

Under these circumstances, OP *does not support* the current request which would significant increase the existing nonconformities but *could* support a more modest expansion.

Incorporating the open court into the first floor would increase the interior floor area by 90 square feet. The current FAR and lot occupancy would only increase by 18 square feet, from 2.03 to 2.04 FAR and from 80% to 81% lot occupancy, respectively. This is because the current lot occupancy and FAR calculations already include the area of the skylights which elevate more than 4 feet above the adjacent grade. Eighteen square feet represents the additional floor area needed to straighten the existing bend in the rear dwelling façade.

- **No Substantial Detriment to the Public Good**

It does not appear that eliminating the L-shape by squaring the first floor and straightening the rear first floor façade would negatively impact the surrounding neighborhood.

- **No Substantial Harm to the Zoning Regulations**

Granting the zoning relief necessary to infill the L-shape of the first floor of the existing row dwelling on this small lot would not be contrary and detrimental to the intent and integrity of the Zoning Regulations.

OP also recommends that the applicant submit revised a revised site and building floor plans to the public record for BZA review prior to final action.

VI. COMMUNITY COMMENTS

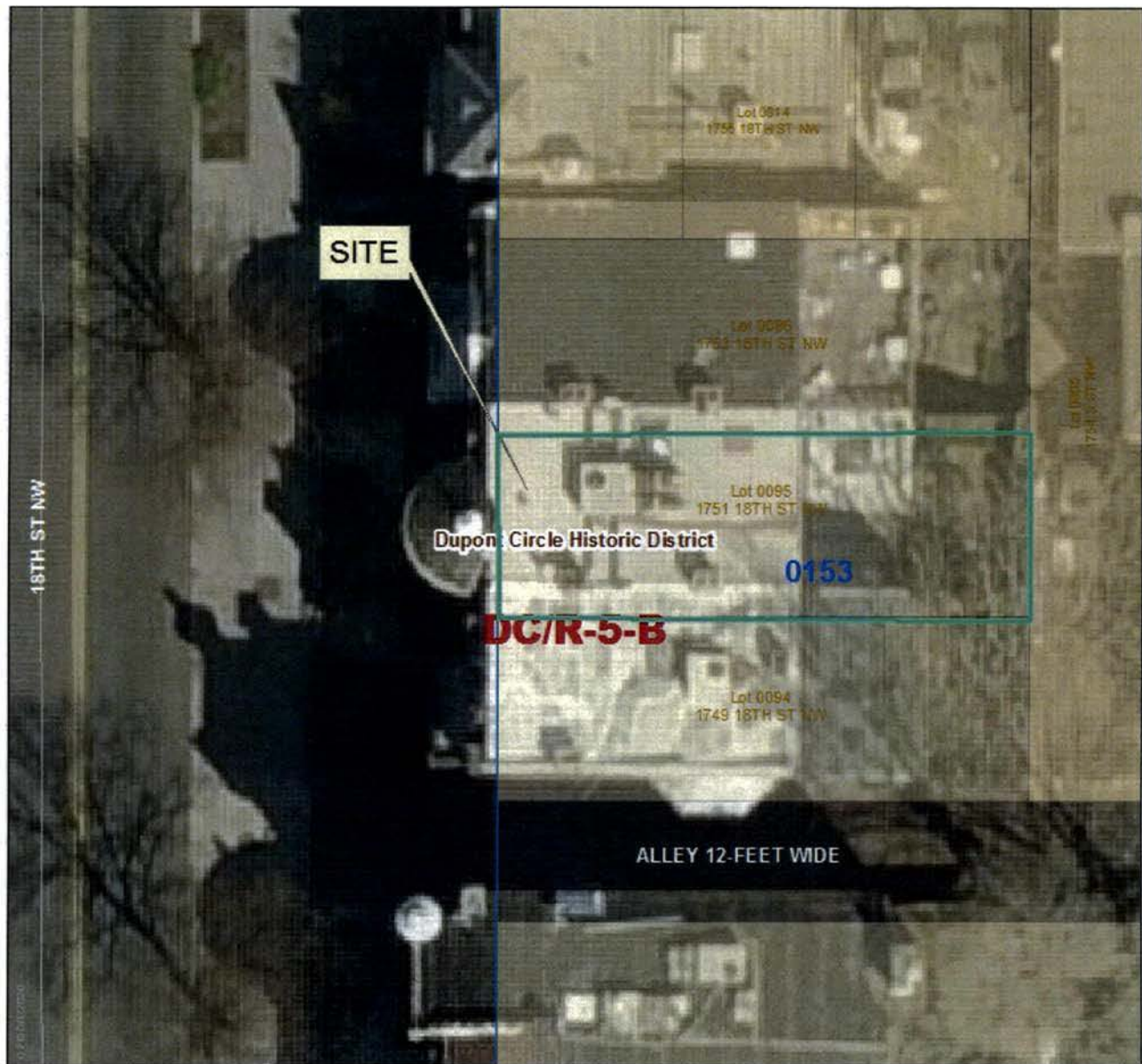
On December 12, 2011, Advisory Neighborhood Commission (ANC)

2B unanimously voted to support this application. The applicant also provided copies of letters from the neighboring property owners in support of this application.

Figure 2



The subject red brick building is in the middle.



BZA Application No. 18487
1751 18th Street NW



Government of the District of Columbia
 Office of Planning ~ January 2, 2013

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