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MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM:  Brandice Elliott, Case Manager
Joel Lawson, Associate Director Development Review

DATE: June 4, 2013

SUBJECT: BZA Case 18566, 929 5th Street, SE

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends **denial** of the following

- § 402 4, Floor area ratio (1 8 required, 2 1 proposed),
- § 403 2, Lot occupancy (60% required, 73 2% proposed),
- § 404 1, Rear yard (15 feet required, 12 7 feet proposed),
- § 406 1, Courts (6 feet required, 2 feet proposed), and
- § 2001 3, Nonconforming structures

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO 18566

EXHIBIT NO 27

The applicant has modified the application to better address concerns identified by the Office of Planning. In doing so, some required relief may have been inadvertently removed from the application. The Office of Planning believes that the relief noted above and in the table that follows for floor area ratio, lot occupancy, rear yard and court should continue to be included in this application, as they pertain to the third story addition.

II. LOCATION AND SITE DESCRIPTION

Address	929 5 th Street, SE
Legal Description	Square 824, Lot 31
Ward	6, 6D
Lot Characteristics	The lot is rectangular, with 698 square feet in area. It has a frontage and rear of 13 94 feet, and is 50 08 feet in length. The lot is accessed from 5 th Street, as it does not have alley access. The lot is one of ten older row dwellings that have been excluded from the Capper/Carrollsbury PUD. All other residences in the square are part of the PUD.
Zoning	R-5-B – residences of a moderate height and density
Existing Development	Row dwelling, permitted in this zone
Historic District	N/A



Adjacent Properties	The adjacent properties are generally rectangular in shape, ranging from 508 square feet in area to 1,097 square feet in area. These lots are improved with row dwellings that range from two to three stories, with some three story dwellings having a penthouse. The relatively new row dwellings are constructed pursuant to the PUD. The ten row dwellings that pre-date the PUD are uniformly two stories on smaller-sized lots.
Surrounding Neighborhood Character	To the north and south are existing two story row dwellings. To the east, are Arthur Capper/Carrollsborg Senior Multi-Family Dwellings. To the west are additional row dwellings.

III. APPLICATION IN BRIEF

The applicant is requesting relief that would allow a third story addition to an existing nonconforming two-story row dwelling. The third story addition would accommodate a new master bedroom, bathroom and loft, and would be set back five feet from the front of the dwelling, leaving a terrace of approximately 69 square feet in area. While the lot occupancy would not increase, it is greater than 70%, which requires the relief to meet the requirements of a variance rather than a special exception.

The Office of Planning has confirmed that the subject property is not located in the Capper/Carrollsborg PUD, which excludes the row of existing two-story dwellings on 5th Street, but includes all other residences within the square.

IV. ZONING REQUIREMENTS and REQUESTED RELIEF

R-5-B Zone	Regulation	Existing	Proposed	Relief
Height § 400	50 ft max	25 3 ft	35 ft	None required
Lot Width § 401	None prescribed	13 9 ft	13 9 ft	None required
Lot Area § 401	None prescribed	698 SF	698 SF	None required
Floor Area Ratio § 402	1 8	1.4	2 1	Required
Lot Occupancy § 403	60% max	73 2% ¹	73 2%	Required
Rear Yard § 404	15 ft. min	12 7 ft	10 7 ft	Required
Side Yard § 405	None required	0 ft	0 ft.	None required
Court § 406	6 ft min	2 ft	2 ft	Required

¹ The application indicates that the existing lot occupancy is 69 5%, however, the revised figure of 73 2% was provided by the applicant in an email dated May 21, 2013. Given that the existing lot occupancy is greater than 70%, the relief requested for §§ 403 2, 404 1, 406 1 and 2001 3 must meet the requirements of a variance rather than a special exception. The relief for floor area ratio can only be requested as a variance.

V. OFFICE OF PLANNING ANALYSIS

a. Variance Relief from § 402, Floor Area Ratio; § 403, Lot Occupancy; § 404, Rear Yard; § 406, Court; and § 2001, Nonconforming Structures

i. Exceptional Situation Resulting in a Practical Difficulty

The applicant has not demonstrated that there is an exceptional situation related to the property that results in a practical difficulty. The lot measures 13 94 feet by 50.08 feet and has an area of 698 square feet. The property is in a group of ten two-story row dwellings located on 5th Street that all have a similar frontage and lot area. These dwellings have a floor area of approximately 1,000 square feet. The floor plan provided in the application demonstrates that while the dwelling is small, it is functional and appropriately sized for the lot on which it is located.

The applicant notes that several properties in the square have a third story and penthouse and 100% or near 100% lot occupancy, however, with the exception of the ten row dwellings on 5th Street, all residences in this square are in the Capper/Carrollsbury PUD, which permitted a higher floor area ratio and lot occupancy in exchange for public amenities and benefits.

The applicant has made an effort to shrink the size of the addition so that it is more compliant with the zoning regulations. In doing so, the degree of the relief included in the application has been reduced. While the Office of Planning recognizes and appreciates this effort, it is unable to identify an exceptional situation that would justify the need for increased floor area ratio.

ii. No Substantial Detriment to the Public Good

Reducing the size of the proposed addition would lessen its impact on surrounding properties. The applicant has attended several meetings with the ANC and neighbors, and has addressed concerns noted at those meetings by modifying the design. Several letters of support have been included in the application, indicating that the neighborhood is generally amenable to the proposed addition.

The proposed addition would be similar in height to other dwellings in the square, and would not extend further into the rear yard than the existing structure. As a result, it would not likely have an impact on adjacent or nearby properties, and would not cause substantial detriment to the public good.

iii. No Substantial Harm to the Zoning Regulations

The granting of the relief would impair the intent, purpose and integrity of the zone plan and zoning regulations. With the exception of the row of ten dwellings along 5th Street, the square is part of the Capper/Carrollsbury PUD, which permitted floor area ratio and lot occupancy in excess of what is permitted by the zoning regulations in exchange for public benefits and amenities. The integrity of the zoning regulations would be substantially impaired by granting variances based on what has been permitted for adjacent development, and not for demonstrated uniqueness and practical difficulty or hardship.

VI. COMMUNITY COMMENTS

The applicant has met with ANC 6D, the Zoning Committee of the Capitol Hill Preservation Society, the Capitol Quarter Phase I HOA and with many individual neighbors. In addition, several letters of support from adjacent property owners have been provided. One adjoining neighbor has expressed some concerns regarding the third story addition.

VII. COMMENTS OF OTHER DISTRICT AGENCIES

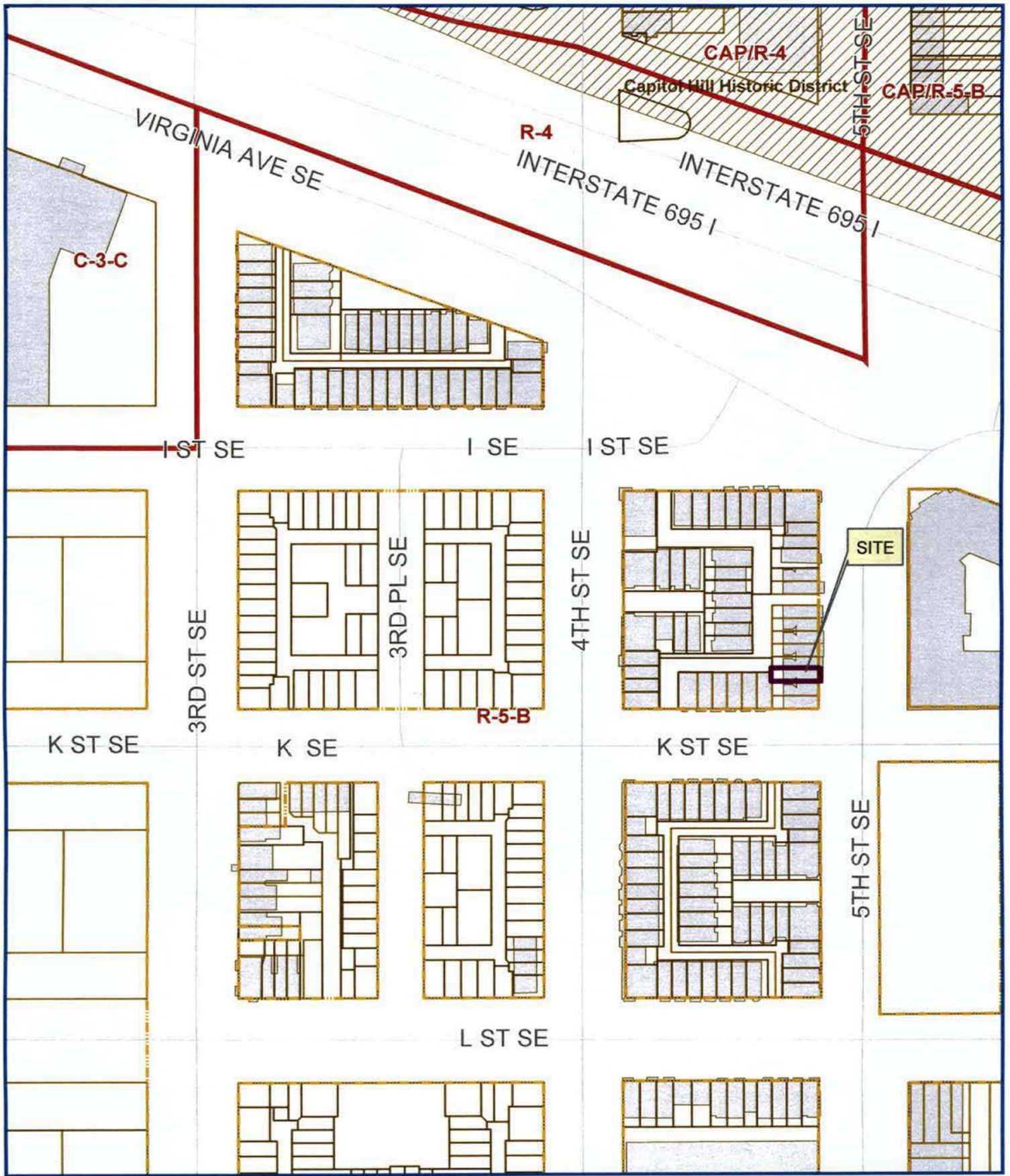
As of the date of this report, no other agency comments were on file.

VIII. OP RECOMMENDATION

The Office of Planning does not support the requested relief that would permit the addition of a third story to the existing row dwelling. While the applicant has scaled back the addition so that it no longer includes the two-foot overhang into the rear yard, the variance for floor area ratio has not been justified based on an exceptional situation that makes the property unique.

However, should the Board determine that a unique condition exists and the variance for floor area ratio can be approved, the Office of Planning would support the other variances that have been requested in this application, including lot occupancy, rear yard, court, and addition to a nonconforming structure.

Attachment: Location Map



Legend

- Zoning Districts
- Planned Unit Development (PUD)
- Designated Historic Districts
- DC Parks

BZA 18566 - 929 5th Street, S.E.

This map was created for planning purposes from a variety of sources. It is neither a survey nor a legal document. Information provided by other agencies should be verified with them where appropriate.

