



MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment 2013 JUN 11 PM 3:44

FROM: Maxine Brown-Roberts, Project Manager
Joel Lawson, Associate Director, Development Review

DATE: June 11, 2013

SUBJECT: BZA 18570 – 1845 North Capitol Street, NE

I. SUMMARY RECOMMENDATION

The Office of Planning (OP) **recommends approval** of the requested variance pursuant to § 3103.2 and § 403.1, minimum lot area to retain an existing, permitted 3-unit apartment building in the R-4 zone. The subject property has a land area of 1,313 square feet where a minimum lot area of 2,700 square feet is required to accommodate a 3-unit apartment building in the R-4 district.

Although OP normally does not recommend approval of requests to create new apartment buildings in the R-4 rowhouse zone, in this case, the apartment configuration existed prior to this current owner and work was permitted.

II. AREA AND SITE DESCRIPTION

Address:	1845 North Capitol Street, NE
Legal Description:	Square 3513, Lot 0022
Ward/ANC:	5, 5E
Lot Characteristics:	A rectangular lot with an area of 1,311 square feet that is bounded to the north by T Street and to the west by North Capitol Street, and to the east and south by row houses.
Existing Development:	The property is developed with two-story plus basement semi-detached rowhouse.
Zoning:	R-4 – detached, attached, semi-detached, single family dwellings and flats.
Historic District:	Not in a historic district.
Adjacent Properties:	Single family rowhouses.
Surrounding Neighborhood Character:	The area is predominantly single family rowhouses, flats and some apartment buildings in the R-4 district.

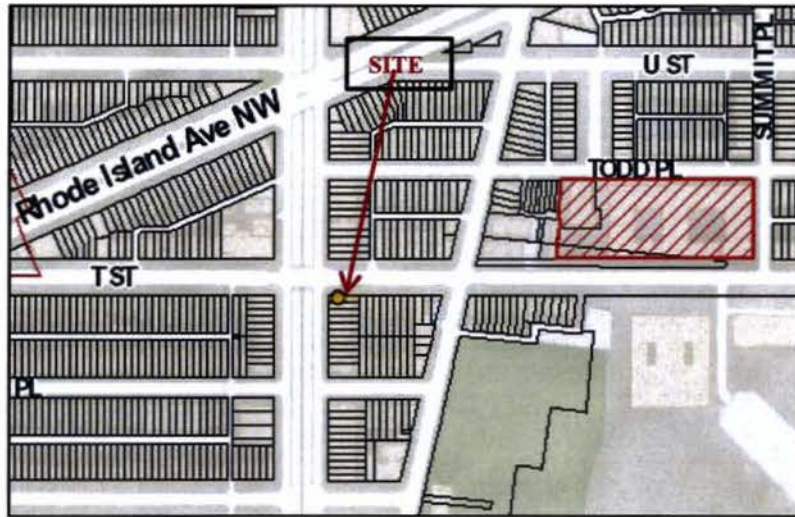
BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18570

EXHIBIT NO. 28



III. MAPS



IV. APPLICATION IN BRIEF

The applicant, 1845 North Capitol Street, NE LLC, requests area variance pursuant to 11 DCMR § 3103.2 and § 401.3, minimum lot area, 900 square feet/apartment or 2,700 square feet where a lot area of 1,311 square feet is provided for a 3-unit apartment building in the R-4 zone.

V. BACKGROUND

The records indicate the following permits for use of the building:

February 25, 1951	Certificate of Occupancy for an apartment building. The permit did not state the number of units.
June 12, 1981	Certificate of Occupancy for a 4-unit apartment building.
May 31, 1985	Certificate of Occupancy for a 4-unit apartment building.
April 25, 1989	Certificate of Occupancy for a flat: 1 unit in basement and one unit on the first and second floor.
August 29, 1995	Certificate of Occupancy for a 2 family flat: 1 unit in basement, 1 unit on the first and 1 unit on second floor

July 26, 2012 Building Permit approved for 3 units.

The applicant states that they purchased the property in 2012 and it was separated into 3-units with independent access points and independent kitchens and bathroom facilities indicating that it was a 3-unit apartment building. Based on the physical layout of the building and with the intention of keeping the 3-units, the applicant submitted an application for a Building Permit for 3-units and was granted the approval on July 26, 2012.

Based on this approval, the applicant proceeded with the renovation of the building to retain the 3-units. Subsequent to the renovations the applicant applied for a Certificate of Occupancy at which time the Zoning Administrator determined that the 3-unit apartment building is not permitted in the R-4 zone and would need a variance relief from the requirements of § 403.1.

The applicant states that they applied for the Building Permit in good faith and was granted a permit for 3-units. Based on this permit, a substantial amount of money was invested in renovating the building.

VI. OFFICE OF PLANNING ANALYSIS

Compliance with variance relief

i. Uniqueness Resulting in a Practical Difficulty

While the land does not exhibit a specific uniqueness leading to a practical difficulty, there is an exceptional situation as the applicant demonstrated good faith and a reliance on the actions of City officials. The applicant was not involved in the conversion of the building to a 3-unit apartment building and believed, in good faith that the building was in compliance with all regulations and requirements. The applicant clearly stated on the Building Permit application that the building has 3-units and was in the R-4 zone, and relied on DCRA's issuance, in error, of the Building Permit for a 3-unit apartment building.

ii. No Substantial Detriment to the Public Good

The strict application of the zoning requirements, with respect to lot area, would result in a practical difficulty due to the unnecessarily burdensome financial hardship it would cause the applicant. The applicant has expended substantial sums of money to renovate the three independent units and without relief from the lot area requirement (§ 401.3), would be required to convert the structure from a 3-unit apartment building to a flat.

iii. No Substantial Harm to the Zoning Regulations

Typically, OP opposes strongly relief to allow conversion of a row house to a multi-dwelling building in R-4. In this case, however, due to the extenuating circumstances noted above, relief could be granted without substantial detriment to the Zoning Regulations or the public good. The property functions as a three-unit apartment building and no additional construction except for some excavation to allow additional light into the basement unit was required.

VII. COMMUNITY COMMENTS

The applicant has submitted letters from surrounding neighbors who reside in close proximity to the property that indicate support for the requested relief. An official position had not been

received from ANC-5E at the time this report was written; however, the applicant asserts that that they have made a presentation to the ANC.

VIII. COMMENTS OF OTHER DISTRICT AGENCIES

Comments from the Department of Transportation (DDOT) will be submitted under separate cover.