



MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Matt Jesick, Case Manager
Joel Lawson, Associate Director Development Review
DATE: October 22, 2013
SUBJECT: BZA #18651 – 319 A Street, NE

I. RECOMMENDATION

With regard to this proposal to allow the subdivision of two lots and the creation of a new alley dwelling, the Office of Planning (OP) recommends **denial** of the following relief:

Lot 827 and the New Principal Lot

- § 401 Lot Area (2,700 sf required; 2,204 sf existing; 1,722 sf proposed);
- § 403 Lot Occupancy (40% maximum; 78% existing; 72% proposed);
- § 2101 Parking (1 required; 1 existing; 0 provided);

New Alley Lot

- § 401 Lot Area (1,800 sf required; 971 sf proposed);
- § 403 Lot Occupancy (60% maximum; 100% proposed);
- § 404 Rear Yard (20 feet minimum; 0 feet proposed);
- § 2507.2 Alley Width (30 feet required; 15 feet existing) (Use Variance).

II. LOCATION AND SITE DESCRIPTION

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18651

EXHIBIT NO. 35

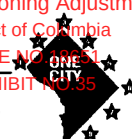
Address	319 A Street, NE
Legal Description	Square 786, Lots 827 and 22
Ward and ANC	6, 6C
Lot Characteristics and Existing Development	Lot 827 is a rectangular lot fronting on A Street with an existing three-unit apartment building and a detached garage at the rear. The apartment building has a certificate of occupancy dating back to at least the 1960s. Lot 22 is an alley lot located behind 321 A Street that is occupied entirely by a garage. According to the applicant the two garages are used for storage. Both lots are under the same ownership.
Zoning	CAP / R-4 (Capitol Interest Overlay / Rowhouse Residential)
Historic District	Capitol Hill

Board of Zoning Adjustment

District of Columbia

CASE NO. 18651

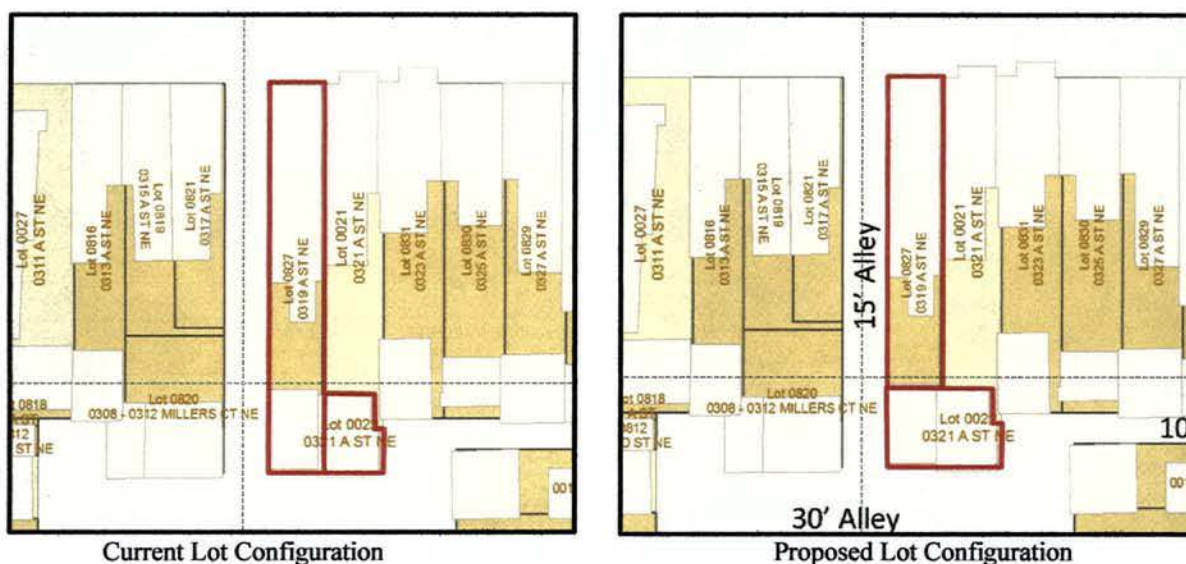
EXHIBIT NO. 35



Adjacent Properties	North – Frederick Douglass Museum South – Apartment building East – Single family rowhouse West – Single family rowhouse; alley dwellings
Surrounding Neighborhood Character	Mix of rowhouses and small apartment buildings with some institutional uses; Miller's Court has some alley dwellings and carriage houses.

III. APPLICATION IN BRIEF

The applicant proposes to subdivide two existing lots to form two new lots, and to construct a new single family dwelling on one of the new lots. Please refer to the images below.



The existing lot fronting on A Street, NE, Lot 827, has an existing nonconforming three-unit apartment building and a detached garage at the rear. The adjacent alley lot, Lot 22, is occupied by a garage. The applicant proposes to demolish the two garages and construct a new two story dwelling on the resulting alley lot.

IV. ZONING REQUIREMENTS AND REQUESTED RELIEF

This application was referred by the Zoning Administrator who noted that the following areas of relief were required for the proposed development.

Lot 827 and the New Principal Lot

R-4 / CAP	Regulation	Existing	Proposed
Lot Area § 401	2,700 sf	2,204 sf (Lot 827 only)	1,722 sf (New principal lot)

Lot Occupancy § 403	40%	78% (1,719 sf) (Lot 827 only)	72% (1,237 sf) (New principal lot)
Parking § 2101	1 per 3 d.u.	1	0

New Alley Lot

R-4 / CAP	Regulation	Existing	Proposed
Lot Area § 401	1,800 sf	n/a (Existing Lot 22 is 489 sf)	971 sf
Lot Occupancy § 403	60%	n/a	100% (971 sf)
Rear Yard § 404	20 feet	n/a	0 feet
Alley Width § 2507.2	30 feet	n/a	15 feet

Based on previous determinations by the Board, the variance to Alley Width is considered a use variance. All the other forms of relief are area variances. OP also believes, in conformance with a recent Zoning Administrator determination, that a variance is necessary from § 199 and the definition “Yard”, which states that “no building or structure shall occupy in excess of fifty percent (50%) of a yard required by this title.” In this case, 100% of the required rear yard of the newly created lot would be occupied by a structure.

V. ANALYSIS

In order to be granted a variance, the applicant must show that they meet the three part test described in § 3103.

- Does the property exhibit specific uniqueness with respect to exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situations or conditions?**

The subject properties do not exhibit unique or exceptional conditions. Lot 827 is a typical rowhouse-type lot. Lot 22 is an alley lot like many in the Capitol Hill area. The confluence of factors cited by the applicant in their written statement focus mostly on the fact that the existing lots are non-conforming – and even that the *future* lots would be nonconforming – which are not reasons to further existing non-conformities or create new ones. The applicant also states that the “garages are no longer suitable or usable for garage or other permitted purposes” and that “neither garage could be replaced” (Written Statement, p. 4). In fact, the Zoning Administrator permits the replacement of existing dilapidated accessory structures, even if they contribute to a nonconformity such as lot occupancy. In another point, the written justification states that Lot

22 is not large enough for any permitted “residential or accessory use in the R-4 zone” (ibid., p. 5), but in actuality the Regulations permit a number of uses on the property, including parking, storage and an artist’s studio.

- 2. Does the uniqueness or the extraordinary or exceptional situation impose a practical difficulty which is unnecessarily burdensome to the applicant? Or, in the case of a use variance, does the uniqueness or the extraordinary or exceptional situation result in an undue hardship on the owner?**

Because the first part of the test has not been met, the second part of the test is also not met. The written statement claims that without the variances “the owner would be deprived of any reasonable use of a substantial portion of the Property” (ibid.). The applicant themselves note that the garages are used for storage presently, and, as noted above, other uses are available for Lot 22. The garage on Lot 827 could be used for the parking required for the multi-family dwelling on the site. The applicant has not demonstrated that no other uses are possible, which could potentially warrant a use variance

- 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?**

Granting the requested relief would impair the intent and integrity of the Zoning Regulations. The justifications cited by the applicant focus on existing nonconformities of the properties. Granting the relief would mostly exacerbate those nonconformities and would create new nonconformities. For example, Lot 827 is already nonconforming for lot area; 2,700 square feet is required for the three-unit apartment building, but the lot is only 2,200 square feet in size. The proposal would worsen that situation by reducing the size of the lot. The proposal would also remove the one conforming and required parking space on the site, notwithstanding that the garage is not currently being used for parking. While the new unit would be similar to the historic character of other alley dwellings on Miller’s Court, the Regulations purposefully intend to limit the creation of new alley dwellings.

Granting the requested relief could result in a detriment to the public good. The new structure would occupy 100% of its lot and thus have no rear yard or other property line setback, which could impact light and air for adjacent properties, including the former Lot 827. The design also has lot-line windows on the north side of the building which would face directly into the back yard of the former Lot 827, impacting the privacy of residents of that property.

VI. HISTORIC PRESERVATION

The subject site is located in the Capitol Hill Historic District and the design has received approval from HPRB.

VII. COMMENTS OF OTHER DISTRICT AGENCIES

OP requested comments from the District Department of Transportation (DDOT), the Fire and Emergency Services Department (FEMS), and DC Water. In conversations with OP, DDOT indicated that it had no issues with the proposal. As of this writing OP has not received a response from the other agencies.

VIII. COMMUNITY COMMENTS

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