

**MEMORANDUM**

**TO:** District of Columbia Board of Zoning Adjustment  
**FROM:** Paul Goldstein, Case Manager  
 Joel Lawson, Associate Director Development Review  
**DATE:** May 13, 2014  
**SUBJECT:** Office of Planning Supplemental Submission BZA Application #18734

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**I. OFFICE OF PLANNING RECOMMENDATION**

OP is **not able to support** the following relief for a third-story addition to an existing apartment building located at 1815 Riggs Place NW.

- § 402.4, area variance relief for excessive floor area ratio

OP concludes that the Applicant has not yet met the burden for relief from the floor area ratio (FAR) limitation. Nevertheless, if the Board finds that the Applicant has satisfied the variance test for § 402.4 and that the proposed FAR is appropriate for this site, then OP would have no objection to requests for expansion of a non-conforming building and open court relief as listed below

- § 406.1, area variance relief for non-conforming open courts
- § 2001.3, area variance relief for the expansion of a non-conforming structure

OP also notes that the site is presently non-conforming to lot occupancy and rear yard, although no change is proposed to these conditions

**II. BACKGROUND**

The Applicant's initial application requested area variance relief from § 2602.1 (Inclusionary Zoning (IZ)), § 406.1 (non-conforming open courts), and § 2001.3 (expansion of a non-conforming structure). Following the Board's indication that the Applicant failed to satisfy the request for IZ relief, the Applicant amended the application to instead seek relief from the FAR requirements of § 402.4.<sup>1</sup> No changes have been made to the addition design, although the Applicant no longer references creating dedicated affordable units as a component of the proposal.

**III. ZONING REQUIREMENTS**

The following table, which reflects information supplied by the Applicant, summarizes certain zoning requirements for the project and the relief requested:

| <b>R-5-B Zoning</b>               | <b>Restriction</b>                                                                                                                                                                               | <b>Existing</b> | <b>Proposed</b> | <b>Relief</b>                      |
|-----------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|-----------------|------------------------------------|
| Lot occupancy (building area/lot) | 60% max                                                                                                                                                                                          | 85%             | 85%             | Non-conforming; no change proposed |
| Rear yard (ft)                    | 4 inches per foot of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet wall, but not less than 15 feet. | 3'9"            | 3'9"            | Non-conforming; no change proposed |

BOARD OF ZONING ADJUSTMENT  
 District of Columbia

CASE NO. 18734

EXHIBIT NO. 38

<sup>1</sup> The Applicant continues to seek relief from §§ 406 and 2001.3



|                  |                                                           |                        |                        |               |
|------------------|-----------------------------------------------------------|------------------------|------------------------|---------------|
| Court, open      | 4 in. per foot of height of court, but not less than 6 ft | 2' (east)<br>7' (west) | 2' (east)<br>7' (west) | Relief needed |
| Floor area ratio | 1.8 max                                                   | 1.65                   | 2.16                   | Relief needed |

In R-5-B zones, apartment buildings are a permitted use. The subject building is presently non-conforming to lot occupancy, rear yard, and open court, meaning that any building expansion would require relief from § 2001.3. The proposal would extend existing non-conforming open courts and require relief from § 406.1. With the addition, the building would exceed the maximum floor area ratio (§ 402.4). Finally, the application indicates that there is presently no on-site parking and that no additional parking is required (per § 2100.7) or proposed for the expansion.

#### IV. OP ANALYSIS

##### Area Variance Relief

###### *Floor area ratio (§ 402)*

- **Does the property exhibit specific uniqueness with respect to exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situations or conditions, and does the extraordinary or exceptional situation impose a practical difficulty which is unnecessarily burdensome to the applicant?**

The Applicant has not demonstrated how any specific uniqueness imposes a practical difficulty which is unnecessarily burdensome to the Applicant to justify relief from the FAR limitation. The Applicant identifies Property features such as the building's shape, lot width, and the location in the historic district, among others, to demonstrate the Property's uniqueness. But even if such traits were found to be sufficiently unique, the Applicant has not shown how the uniqueness creates a practical difficulty as it relates to supporting the excessive FAR proposed. The Property already has an existing and occupied 21 unit apartment building that exceeds lot occupancy, has a substandard rear yard and open courts, and provides no on-site parking or loading. The site presently is developed to 1.65 FAR, which is only slightly below (by 565 square feet) the maximum permitted FAR of 1.8 in an R-5-B zone. The Applicant now proposes to construct three new units which would raise the FAR to a non-conforming 2.16 FAR. The Applicant has submitted information to show that a one unit addition conforming to the FAR limit would be financially infeasible.<sup>2</sup> OP is not able to identify how an exceptional situation validates the need for increased FAR to further expand an already non-conforming and functioning apartment building.

- **Can the relief be granted without substantial detriment to the public good?**

Even though the relief request does not satisfy the first prong of the variance test, OP does note that relief could be granted without detriment to the public good. The project should not have a substantial impact on neighboring properties. The proposal would result in a building height similar to adjacent dwellings, the addition itself would conform to lot occupancy and rear yard standards, and the design has been approved in concept (subject to revisions) by the Historic Preservation Review Board (HPRB).

- **Can the relief be granted without substantially impairing the intent, purpose and integrity of the Zoning Regulations and Map?**

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<sup>2</sup> OP also notes that the Applicant has not provided any information supportive of a two unit addition, which at least could potentially minimize the degree of relief requested.

The proposal would impair the intent, purpose, and integrity of the Zoning Regulation and Map by accommodating an excessive intensity of development for the zone without a showing of a uniqueness imposing a practical difficulty upon the Applicant.

*Expansion of a non-conforming structure (§ 2001 3) and open court (§ 406)*

Since OP does not find that the Applicant has satisfied the area variance burden related to FAR relief, other relief requests to §§ 2001 3 and 406 are immaterial. However, should the Board determine that the proposed FAR is appropriate, OP has no objection to these additional relief requests. The non-conforming open courts already exist and the addition is designed to minimize impacts with substantial setbacks from the northern and western property lines. Additionally, although the building is already non-conforming to lot occupancy, the proposed addition would itself conform to lot occupancy.

**V. ANC/COMMUNITY COMMENTS**

To date, OP has not received an official submission from ANC 2B. OP has reviewed one letter in support of the application (1817 Riggs Place) and two letters in opposition to the application (1728 18<sup>th</sup> Street NW and 1829 Riggs Place).

**VI. HISTORIC PRESERVATION**

At the March 27, 2014 meeting, HPRB found the proposed concept compatible with the character of the historic district subject to further design refinements.

JLS/pg  
Paul Goldstein, case manager