

**MEMORANDUM**

TO: District of Columbia Board of Zoning Adjustment

FROM: Arthur Jackson, Case Manager
 Joel Lawson, Associate Director Development Review

DATE: July 8, 2014

SUBJECT: **BZA Case 18795** - request for variance relief to allow the renovation, expansion and conversion of a non-residential building located on an alley lot at 2123 Twining Court NW for use as a one-family dwelling

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) **cannot recommend approval of** the area variance relief requested from § 2507.3 (a prohibition against conversion of nonresidential building on the referenced alley lots for human habitation), in accordance with §3103.5. Though supportive of the proposal in concept, the application does not adequately explain how strict application of the Zoning Regulations on this developed commercial property in the midst of a medium-density mixed use commercial district would result in a practical difficulty.

However, if the Board of Zoning Adjustment (BZA) accepts the above-referenced relief, OP would support the relief from §§ 772.1 (a maximum 80% lot occupancy is allowed, to original structure occupies 83% of the site) and 2001.3 (the original structure exceeds the allowable lot occupancy and the site does not border an alley with a consistent width of 30 feet) necessary to accommodate conversion of the original historic building.

Regarding the relief actually required in this case, the Office of Zoning Administrator (OZA) referral letter dated February 20, 2014, stated that the proposed change-in-use required *special exception* relief from § 2507.2 (for construction of a new dwelling on an alley lot, rather than § 2507.3 for a conversion of an existing building) and *variance* relief from §§ 772.1, 774.1 (rear yard) and 2001.3. However:

- Special exception relief from § 2507.2 is not permitted, rather this provision has been interpreted as requiring a *use variance*.
- Since this is a case involving a conversion of an existing (historic) building, it would appear that § 2507.3 is more appropriate.
- The applicant subsequently requested *area variance* relief from §§ 772.1, 2001.3 and 2507.3, but not § 774.1.

To date the inquiries to clarify the required reliefs have gone unanswered. OP analysis has been provided against the relief as requested by the applicant, from §§ 2507.3, 772.1, and 2001.3.

II. LOCATION AND SITE DESCRIPTION:

Address:	2123 Twining Court NW
Legal Description:	Square 0068, Lots 0807 and 0808
Ward:	2B
Lot Characteristics:	The abutting lots form a site covering 3,552 square feet (0.08 acre) and bordered on four sides by public alleys. The alleys vary in width from 15-30 feet. One 30 foot-wide alley section that extends east-to-west along the southern boundary of the site narrows to a width of 15 feet before it intersects 22 nd Street NW west of the site (refer to Figure 3).

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Zoning:	DC/C-2-C – one-family dwellings are allowable under § 701.2 and buildings <i>on alley lots</i> are subject to the provisions of § 2507.
Existing Development:	The property is developed with a 2 ½-story building known as the Spencer Carriage House and Stable. It was constructed as a carriage house, stable and servant’s quarters in 1905. Since 1971, DC Department of Consumer and Regulatory Affairs (DCRA) records indicate that certificates of occupancy have been issued for a restaurant and public hall on the property. The application indicates the property has also been a fraternity house and night club but is now vacant. Since the building was constructed in 1905, it predates the current Zoning Regulations. An annotated DC Surveyor plat submitted with the application shows this building constructed to the northern, southern and western property boundaries of the site, and set back approximately 16 feet¹ from the eastern boundary. A public alley 10-foot wide extends along the northern boundary, alleys 30-feet wide along the eastern and southern boundaries, and a 15-foot wide alley along the western boundary. Photographs submitted with the application (refer to Figure 1) show the site at approximately the same elevation as the surrounding alleys with an exterior stair and one story addition at the east end of the building and site.
Historic District:	Dupont Circle. The property is also individually landmarked on the National Register of Historic Places. The Historic Preservation Review Board (HPRB) review of this proposal on April 25, 2013, found the scope of the proposed exterior renovation and one-story addition to be consistent with purposes of the preservation act.
Adjacent Properties:	Four-to-eleven story multiple-unit buildings with ground floor retail and service uses, an office building and hotel along the northern frontage of the square in the same DC\C-3-C district; 3 ½-6 story condominiums, a 5-story rehabilitation and health center and row dwellings along the southern and eastern frontages in a DC\R-5-B district; and a 1 ½-story building occupied by a restaurant at the west end of the square in a DC/R-5-B district.

III. PROJECT DESCRIPTION IN BRIEF

Applicant:	Gerard Boquel (owner of record for both properties) and Lew Hages
Proposal:	To combine the subject properties into a single record lot and convert the existing vacant structure into a one-family dwelling. This would include a complete interior rehabilitation and restoration of the exterior façade in accordance with the referenced HPRB approval. The exterior work includes replacement of the exterior stair and one-story addition at the east end of the building with a smaller addition approximately 6 x 27-feet. This addition would extend the ground-floor interior space for a planned 2-car garage; add another pedestrian building entrance and

¹ Based on OP measurements of the submitted plat.

	second-floor balcony. In response to the submission of building permit construction plans, the OZA issued the referral letter to the Board of Zoning Adjustment (BZA) that was previously discussed above. The applicant then submitted this request for slightly different relief.
Relief Sought:	Area variance relief from §§ 772.1, 2001.3 and 2507.3. OP asked the OZA and the applicant to clarify whether special exception or variance relief is required from § 2507.3 and whether relief from § 774.1 (rear yard) is required. To date no responses have been received.

IV. ZONING REQUIREMENTS

R-4 District	Regulation	Existing	Proposed	Relief?
<i>Lot Occupancy § 772.1</i>	80%	90%	89.7%	+9.7%
<i>Minimum Alley Width § 2507.3</i>	30 feet	10-30 feet	10-30 feet	-15 feet

Because the proposed change in use to a one-family dwelling makes the site nonconforming for lot occupancy, this proposal is also 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 ...; and*
- (b) The addition or enlargement itself shall:*
 - (1) Conform to use and structure requirements; and*
 - (2) Neither increase or extend any existing, nonconforming aspect of the structure; nor create any new nonconformity of structure and addition combined.*

Figure 1



View from the east showing the exterior stairs and mechanical equipment to be replaced by the proposed garage/2nd floor balcony addition

Relief from § 2001.3 (a) and (b) (1) is required because the existing structure and addition would exceed the allowable lot occupancy, and would not conform to the use requirement that an adjacent alley have a continuous width of 30 feet to the intersecting street.

OP noted during its review that the submitted plans appear to *show a new flat* with one dwelling on each floor. When asked, the applicant confirmed this proposal is for a one-family dwelling.

V. OP ANALYSIS

Area variance relief from § 2507.3 in accordance with § 3103.5 (d)

- **Uniqueness Resulting in a Peculiar and Exceptional Practical Difficulty**

The site encompasses the only two alley lots on the square and is a National Register historic property. OP agrees that this combination of factors makes this site unique on this square, however:

- Limitations placed on changes to this property, by virtue of it being in an historic district *and* on the National Register of Historic Places, are very similar to the limitations placed other historic and contributing properties elsewhere in the Dupont Circle Historic District and other historic districts across the District.
- Although exterior change options are limited, substantial rehabilitation of the interior for proposed residence *or any other allowable use*.
- While the decision to convert this commercial alley property to a residence created nonconforming site characteristics, redevelopment of the property, instead, for non-residential use allowed in the DC/C-2-C district *could enable site redevelopment to proceed without additional zoning relief*.

Based on this analysis, the application did not sufficiently explain how strict application of the Zoning Regulations, which allows non-residential use of alley properties in a medium-density mixed use commercial district, results in practical difficulties or would be unnecessarily burdensome.

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

Changing from the previous night club use in the vacant building to a one-family dwelling would bring an activity to the dormant building that should generate less vehicular and pedestrian circulation and noise within the square and a lower demand on available parking resources on the adjacent streets. OP notes that there are other commercial uses allowed on alley lots within the current zoning that would result in minimal traffic generation, little noise and minimal impact on area parking resources.

- **Substantial Harm to the Zoning Regulations**

Granting the requested variance relief, without a clearly defined peculiar and exceptional practical difficulty resulting from *unique* property characteristics being sufficiently established, would be contrary to the intent and detrimental to the integrity of the District Zoning Regulations.

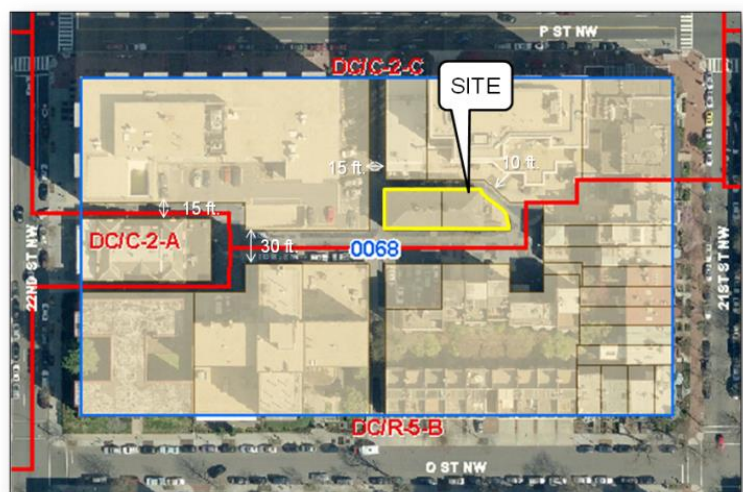
Figure 3

Area variance relief from §§ 772.1 in accordance with § 3103.5, and 2001.3

- **Uniqueness Resulting in a Peculiar and Exceptional Practical Difficulty**

The site encompasses the only two alley lots on the square, and they are developed with a National Register historic property. These factors make this site unique.

Based on the submitted plat, removal of the existing addition



and stair on the eastern façade would reduce the current building to 35 x 84-foot footprint of the original structure which covers 2,940 square feet and occupies 83% of the site.

If the BZA were to approve the relief requested from § 2507.3, OP could support relief from §§ 772.1 (lot occupancy) and 2001.3 (limitations on additions to nonconforming structures) *to the extent necessary* allow the original historic building. Submitted plans indicated that building interior would be entirely rehabilitated for proposed change-in-use. There is no explanation why the desired two-car interior garage could not be accommodated within the footprint of the historic building.

OP also notes that: the existing building addition(s) were allowed as a matter-of-right under the current zoning; and the lot occupancy limitation has been triggered by the introduction of a residential use to this site. Replacing the previous use with another non-residential use allowed under the current zoning would permit expansion up to 100% of the site.²

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

Removal of the existing exterior stair and additions on the east building façade to either reduce the existing building its original, historic footprint or to add smaller 6 x 27-foot addition would not be detrimental to surrounding properties.

- **Substantial Harm to the Zoning Regulations**

Granting the variance relief to the extent necessary to accommodate the original historic structure would not harm the integrity of the District Zoning Regulations.

VI. AGENCY COMMENTS

The District Department of Transportation and Fire and Emergency Management Service were contacted for agency comments. To date no comments have been added to the case record file.

The applicant stated that this proposal is scheduled for consideration by Advisory Neighborhood Commission (ANC) 2B on July 10, 2014.

² Subject to HPRB review and approval.