

## MEMORANDUM

**TO:** District of Columbia Board of Zoning Adjustment

**FROM:** Elisa Vitale, Case Manager

Joel Lawson, Associate Director Development Review

**DATE:** October 21, 2014

**SUBJECT:** BZA Case 18841 - request for variance relief pursuant to DCMR 11 § 3103.2 from the requirements regarding nonconforming structures with respect to lot occupancy (§ 2001.3) and courts (§ 406) to construct an addition to an existing flat at 1522 8<sup>th</sup> Street NW

### **I. OFFICE OF PLANNING RECOMMENDATION**

The Office of Planning (OP) **is not able to support** the requested relief for a three-story addition to an existing flat at 1522 8<sup>th</sup> ST NW:

- §§ 403 & 2001.3, area variance for expansion of a nonconforming structure (60 % maximum lot occupancy permitted, 77 % existing and proposed for the upper story addition); and
- § 406.1, area variance relief for non-conforming open courts (11.83 feet required, 5.83 feet provided).

### **II. LOCATION AND SITE DESCRIPTION**

|                      |                                                                                                                                                            |
|----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Address              | 1522 8 <sup>th</sup> Street NW                                                                                                                             |
| Legal Description    | Square 397, Lot 828                                                                                                                                        |
| Ward                 | 6E                                                                                                                                                         |
| Lot Characteristics  | The property is rectangular in shape. The western property line abuts a 10-foot improved alley.                                                            |
| Zoning               | R-4 – detached, attached, semi-detached, single family dwellings and flats.                                                                                |
| Existing Development | Three-story flat, permitted in this zone.                                                                                                                  |
| Historic District    | Shaw Historic District                                                                                                                                     |
| Adjacent Properties  | The surrounding neighborhood is residential in character, with commercial (C-2-A) to the south and to the east (C-3-C) fronting 7 <sup>th</sup> Street NW. |

### **III. PROJECT DESCRIPTION IN BRIEF**

|           |                                                                                                                                                                                                                                     |
|-----------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Applicant | Meredith H. Moldenhauer, Griffin, Murphy, Moldenhauer & Wiggins, LLP, agent on behalf of Robert Searle, owner.                                                                                                                      |
| Proposal  | The applicant proposes to construct an extension to the upper floor of the house, on top of an existing approximately fifteen-foot (15 ft.) wide by twenty-eight and one-half-foot (28.5 ft.) deep, two-story portion of the house. |

|               |                                                                                                                                                                                  |
|---------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Relief Sought | Variance relief pursuant to § 3103.2 from the requirements regarding expansion of a nonconforming structure (§ 2001.3) with respect to lot occupancy (§ 403) and courts (§ 406). |
|---------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

#### IV. ZONING REQUIREMENTS

| R-4 Zone                | Regulation                                | Existing      | Proposed <sup>1</sup> | Relief                                                                                               |
|-------------------------|-------------------------------------------|---------------|-----------------------|------------------------------------------------------------------------------------------------------|
| Height (ft.) § 400      | 40 ft. max.                               | 35.5 ft.      | No change             | None required                                                                                        |
| Lot Width (ft.) § 401   | 18 ft. min.                               | 20.8 ft.      | No change             | None required                                                                                        |
| Lot Area (sq.ft.) § 401 | 1,800 sq. ft. min.                        | 1,966 sq. ft. | No change             | None required                                                                                        |
| Floor Area Ratio § 401  | None prescribed                           |               |                       | None required                                                                                        |
| Lot Occupancy § 403     | 60 % max.;<br>70% by special<br>exception | 77 %          | 77 %                  | Existing<br>nonconforming for<br>lower floors, relief<br>required for upper<br>floor addition (17 %) |
| Rear Yard (ft.) § 404   | 20 ft. min.                               | 36.08 ft.     | No change             | None required                                                                                        |
| Court, Open § 406       | 11.83 ft. min.                            | 5.83 ft.      | 5.83 ft.              | Existing<br>nonconforming court<br>being extended so<br>relief required (6 ft.)                      |

#### V. OP ANALYSIS

The Applicant is requesting variance relief under § 3103.2 from the requirements regarding expansion of lot occupancy nonconformity (§§ 403 and 2001.3) and courts (§ 406) to construct a three-story addition to an existing flat.

**i. Exceptional Situation Resulting in a Practical Difficulty**

The need for the variance relief arises from extending the third floor to the rear wall of the first and second story below. While the applicant indicates that there is a structurally unsound load-bearing wall, the practical difficulty arises from the applicant's proposal to remove the division wall on the first and second floors and extend the third floor to the rear of the structure. The applicant has not demonstrated that it is impractical to reconstruct the addition on the same footprint while addressing structural concerns. Furthermore, Historic Preservation staff indicated that the roof deck, proposed for the roof of the new third floor addition, could, more appropriately, be placed on top of the existing 2-story rear wing.

**ii. No Substantial Detriment to the Public Good**

While the applicant is proposing to renovate an existing structure in poor condition, the build out of the third floor could potentially impact the light, air and privacy of neighboring property owners as it would extend beyond the neighboring structures.

**iii. No Substantial Harm to the Zoning Regulations**

The Zoning Regulations require that developed lots remain within the prescribed lot occupancy, while permitting for renovations. The applicant has not provided sufficient

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<sup>1</sup> Information provided by applicant.

justification as to why the nonconforming structure should be expanded to facilitate the renovation, which is contrary to § 2001.3(b)(2). Thus, the intent and purpose of the regulations would be harmed with relief from these requirements.

## **VI. COMMUNITY COMMENTS**

ANC 6E voted at its September 2014 meeting to support the requested zoning relief.

## **VII. COMMENTS OF OTHER DISTRICT AGENCIES**

The District Department of Transportation (DDOT) had not provided comments on the subject application at the time this report was written.

### **Attachments:**

1. Location map

