

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Brandice Elliott, Case Manager
JLS
 Joel Lawson, Associate Director Development Review
DATE: November 25, 2014
SUBJECT: BZA Case 18870, 3203 38th Street, N.W.

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends **approval** of the following:

- § 202.10, Accessory Apartment

II. LOCATION AND SITE DESCRIPTION

Address	3203 38 th Street, N.W.
Legal Description	Square 1920, Lot 30
Ward	3, 3C
Lot Characteristics	The rectangular lot is 4,250 square feet in area, with a frontage of 42.50 feet along 38 th Street. The property does not have alley access.
Zoning	R-1-B – High density one-family detached dwellings.
Existing Development	Semi-detached dwelling, not permitted in this zone; however, the dwelling is legal nonconforming as it was constructed in 1917 and predates the Zoning Regulations.
Historic District	N/A
Adjacent Properties	Adjacent properties are generally residential, with semi-detached dwellings located north of the subject site, and multi-family dwellings located south and east of the subject site. Row dwellings are located on the west side of 38 th Street. The site is approximately two blocks from the National Cathedral.
Surrounding Neighborhood Character	The surrounding neighborhood is predominantly residential, including row and semi-detached dwellings, as well as multi-family dwellings.

III. APPLICATION IN BRIEF

Proposal:	The applicant proposes to legitimize an existing accessory apartment located in the basement of a semi-detached dwelling. The accessory apartment was constructed by previous owners and has been occupied by tenants for several years. The current owner was recently notified by DCRA that only a business license had been obtained, and a special exception is required. The 600 square foot apartment is accessed from a separate entry at the side of the existing dwelling. The unit is separated from the property to the north by an approximate 16 foot side yard, and would share a party wall with the property to the south. No alterations to the existing footprint are proposed.
-----------	---

IV. ZONING REQUIREMENTS and RELIEF REQUESTED

R-1-B Zone	Regulation	Existing	Proposed	Relief
Single Family Residence § 202.10	One-family detached	One-family semi-detached	One-family semi-detached	Waiver Requested
Minimum Lot Area § 202.10(a)(2)	5,000 sf. min.	4,250 sf.	4,250 sf.	Waiver Requested
House Gross Floor Area § 202.10(b)	2,000 sf. min.	3,050 sf.	3,050 sf.	None required
Accessory Apartment Gross Floor Area § 202.10(c)	25% of GFA of dwelling	20% (600 sf.)	20% (600 sf.)	None required

V. OFFICE OF PLANNING ANALYSIS

Special Exception Relief pursuant to § 202.10, Accessory Apartment

Compliance with § 202.10

*An accessory apartment may be added within an existing **one-family detached dwelling** if approved by the Board of Zoning Adjustment as a special exception under § 3104, subject to the following provisions:*

(a) The lot shall have a minimum lot area for the following zone Districts:

(2) Five thousand square feet (5,000 sq. ft.) for R-1-B; and

The existing lot is located in the R-1-B District and has an area of 4,250 square feet. The applicant has requested a waiver from this requirement.

(b) The house shall have at least two thousand square feet (2,000 sq. ft.) of gross floor area, exclusive of garage space;

The house has a gross floor area of 3,050 square feet, exclusive of garage and attic space, and complies with this provision.

- (c) The accessory apartment unit may not occupy more than twenty-five percent (25%) of the gross floor area of the house;*

The accessory apartment is 600 square feet in area, which is approximately 20% of the gross living area of the house.

- (d) The new apartment may be created only through internal conversion of the house, without any additional lot occupancy or gross floor area; garage space may not be converted;*

The apartment is existing, and is accessed through a side entrance on the north elevation of the dwelling. The entrance does not contribute to an increase in lot occupancy or gross floor area.

- (e) If an additional entrance to the house is created, it shall not be located on a wall of the house that faces a street;*

The entrance to the apartment is located on the north elevation of the dwelling, adjacent to the driveway, and is not on a wall that faces a street.

- (f) Either the principal dwelling or accessory apartment unit must be owner-occupied;*

The principal dwelling will continue to be owner-occupied.

- (g) The aggregate number of persons that may occupy the house, including the principal dwelling and the accessory apartment combined, shall not exceed six (6);*

According to the applicant, the principal dwelling currently includes two persons, and the accessory apartment would accommodate either one or two persons. At 600 square feet, the accessory apartment would be unlikely to reasonably house more than two people.

- (h) An accessory apartment may not be added where a home occupation is already located on the premises; and*

A home occupation is not located on the premises.

- (i) The Board may modify or waive not more than two (2) of the requirements specified in paragraphs (a) through (h) of this subsection; provided, that the following occurs:*

- (1) The owner-occupancy requirement of paragraph (f) shall not be waived;*
- (2) Any modification(s) approved shall not conflict with the intent of this section to maintain a single-family residential appearance and character in the R-1-, R-2, and R-3 Districts; and*
- (3) Any request to modify more than two (2) of the requirements of this subsection shall be deemed a request for a use variance.*

The applicant has requested that two requirements be waived for the accessory apartment. First, § 202.10 requires the apartment to be located within an existing one-family detached dwelling. The existing dwelling is semi-detached, although it reads as a single family dwelling, as the entrance to the adjoining unit is on Woodley Road rather than 38th Street. Second, § 202.10(a)(2) requires the lot to have a minimum area of 5,000 square feet; the area of the lot is 4,250 square feet.

The Board's granting of a waiver from the first requirement of the subsection, which requires accessory apartments to be located in an existing one-family detached dwelling, would allow the applicant "to establish an accessory unit which would for the most part satisfy all other provisions and which would not change the principal use of the property as a one-family residence. It would not permit the conversion to a flat, which is a different principal use from a one-family residential," and would not be permitted in the R-1-B District.¹

i. Is the proposal in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps?

The proposal would be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps. The accessory apartment requires no alterations to the dwelling and complies with most requirements of § 202.10. The requested waivers represent minimal areas which would not change the principal use as a single-family residential structure as permitted in the R-1-B District.

ii. Would the proposal appear to tend to affect adversely, the use of neighboring property?

The proposal would not adversely impact the use of neighboring properties. The accessory apartment would not alter the character of the neighborhood, as the primary use would still be that of a single family dwelling, and no exterior alterations would be made to the dwelling. In addition, the applicant has provided letters from neighboring property owners, as well as the previous tenant, verifying their support of this request. As a result, the light, air or privacy of adjacent neighbors would not be compromised.

VI. COMMENTS OF OTHER DISTRICT AGENCIES

As of this writing, no other District Agencies have provided comments to OP.

VII. COMMUNITY COMMENTS

At its regularly scheduled meeting on November 17, 2014, ANC 3C voted in favor of supporting the application. Letters of support from adjacent neighbors have been provided by the applicant.

Attachment: Location Map

¹ See Order 18232, page 5.

Location Map

