

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Megan Rappolt, Case Manager
 Joel Lawson, Associate Director Development Review
DATE: February 10, 2015
SUBJECT: BZA Case #18876, 23 46th Street, S.E.

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends **approval** of an area variance per §2101.1 for minor FAR and lot occupancy relief on several individual lots, parking relief, and a special exception in accordance with § 353 to allow the development of five (5) row dwellings.

II. LOCATION AND PROPERTY DESCRIPTION

Applicant	Habitat for Humanity represented by Holland & Knight
Address	23 46 th Street, S.E.
Legal Description	Square 5346, Lot 0004
Ward/ANC	7, 7E
Lot Characteristics	The irregularly-shaped, vacant lot is 8,936 square feet in area, with approximately 105 feet of frontage along 46 th St. SE. The lot is land-locked except for the frontage on 46 th St. SE. There is a 20' wide public alley adjacent to the side lot line for a length of 10'; however there is a substantial, abrupt grade change of 16' at the property line, where it meets the alley. As such, the alley is inaccessible from the lot.
Zoning	R-5-A – lower density urban development consisting of detached and semi-detached single family dwellings, and multi-family buildings
Existing Development	Vacant land
Historic District	None
Adjacent Properties	To the north and south, several three-story brick condominium buildings. To the west, a small-scale condominium building, an alley, and one-story commercial strip center.

Surrounding Neighborhood Character	The surrounding neighborhood includes low-to-moderate scale residential uses with 3-story multi-family buildings and two-unit duplexes along 46 th St. SE. There is a low-scale commercial strip center along S. Capitol Street at the intersection of Benning Road and East Capital Street. The Benning Road Metro Station is .2 miles north of the Property. Generally, the immediate area is hilly with various topographical changes throughout it.
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III. APPLICATION IN BRIEF

The Applicant proposes to develop the vacant Property with five lots with five (5) row dwellings. It is an amendment from the original application of a 10-unit multifamily building. The Applicant requests area variances in order to slightly exceed the permitted FAR and lot occupancy on a few of the individual lots, as well as provide 0 parking spaces, where by 5 are required per §2101.1 Schedule of Requirements for Parking Spaces for multifamily or apartment dwellings in the R-5-A zoning district. Additionally, the Applicant requests Board of Zoning Adjustment (“BZA”) approval of a special exception pursuant to § 353 New Residential Development (R-5-A).

IV. ZONING REQUIREMENTS and REQUESTED RELIEF

R-5-A Zone	Regulation	Proposed Project	Individual Lots	Relief
Height § 400	40 ft. max.	25.2 ft.	25.2	None required
Floor Area Ratio § 402	0.9	.73	Lot 1: .58 Lot 2: .94 Lot 3: .92 Lot 4: .89 Lot 5: .53	Required for Lots 2 and 3
Lot Occupancy § 403	40% max.	36%	Lot 1: 28.9% Lot 2: 47% Lot 3: 46% Lot 4: 44.4% Lot 5: 26.6%	Required for Lots 2, 3 & 4
Rear Yard § 404	20 ft. min.	20 ft.	20 ft. min.	None required
Side Yard § 405	8 ft.	8 ft. (north) and 12’-2” (south)	8’ min. (applicable to Lot 5 and Lot 1)	None required

V. OFFICE OF PLANNING ANALYSIS

The following is OP’s analysis of the plan pursuant to a special exception and minimal variance relief of FAR and lot occupancy on several individual lots, as well as from the required parking regulations.

Special Exception Relief pursuant to § 353

Under § 353.1, all residential developments, except those composed entirely of one-family detached or semi-detached dwellings, are subject to special exception review by the BZA in accordance with § 3104 Special Exceptions and the requirements of 353.2 through 353.5, which are listed below:

353.2 The Board shall refer the application to the D.C. Board of Education for comment and recommendation as to the adequacy of existing and planned area schools to accommodate the numbers of students that can be expected to reside in the project.

The application has been referred to the D.C. Board of Education.

353.3 The Board shall refer the application to the D.C. Departments of Transportation and Housing and Community Development for comment and recommendation as to the adequacy of public streets, recreation, and other services to accommodate the residents of the project and the relationship of the proposed project to public plans and projects.

The application has been referred to the D.C. Department of Transportation, which has filed a report under separate cover.

The application has been referred to the D.C. Housing and Community Development.

353.4 The Board shall refer the application to the D.C. Office of Planning for comment and recommendation on the site plan, arrangement of buildings and structures, and provisions of light, air, parking, recreation, landscaping, and grading as they relate to the future residents of the project and the surrounding neighborhood.

Site Plan, Arrangement of Buildings and Structures: Due to the lack of feasible alley access, the Property is land-locked on three sides, which poses a constraint in terms of the site plan, arrangement of buildings and requisite parking. Additionally, row dwellings must meet lot lines and ideally they will be a uniform size and design in order to build efficiently. In order to meet FAR and lot occupancy on each of the lots and provide three-bedroom units, the Applicant states the interior lots would require a different design than the end row homes. These factors cause the interior lots to require lot occupancy and FAR relief. It appears there is no uncomplicated way to reorient the lot lines to allow for greater lot sizes with the single proposed row dwelling design. Additionally the development overall meets the FAR and lot occupancy requirements.

Provisions of Light and Air: The overall proposal meets the R-5-A rear yard and side yard setbacks and height requirements. Additionally there are 15' and 20' building restriction lines on the east and west sides of the Property. As such, the development provides satisfactory light and air to the adjacent neighbors.

Parking: Five parking spaces are required and zero spaces are proposed. The lack of practical alley access, grade changes along the west/rear of the Property and overall size and shape of the Property make it difficult to provide requisite parking access to each of the five lots in a manner that would efficiently utilize the available land and allow for landscaping.

Landscaping and Grading:

The Property currently is improved with a grass cover and no trees, with retaining wall(s) along the west/rear where the grade drops abruptly. The proposed plan includes a new 4'-6' retaining wall along the rear of the property. Bioretention is planned at the rear of the Property. Two trees are planned for each lot, an ornamental or evergreen in the rear or side yard and a shade tree in the front yard. The introduction of trees on the Property will be beneficial to future residents and the area generally, as there currently is no vegetation on the Property except for grass cover.

353.5 *In addition to other filing requirements, the developer shall submit to the Board with the application, four (4) site plans and two (2) sets of typical floor plans and elevations, grading plans (existing and final), landscaping plans, and plans for all new rights-of-way and easements.*

The developer has submitted the required plans.

3104.1 *The Board is authorized...to grant special exceptions...where, in the judgment of the Board, the special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps*

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

The proposal is in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps. The R-5-A zoning of the Property is a low-density residential district permitting one-family, semi-detached, row home dwellings and by special exception, multi-family dwellings. The proposed development is consistent with the permitted housing type and residential use, and in that way will not adversely affect neighboring properties.

Will the proposal appear to affect adversely the use of neighboring property?

Generally, the proposal does not appear to adversely affect properties to the east, west or south; however, it appears the multi-family condominium buildings (17, 11 and 5 46th St. SE) to the north of the development currently utilize the Applicant's property for parking, a trash receptacle and rear vehicular access. According to the Applicant, there is no legal agreement between the parties for the use of the Applicant's property in this manner. The proposed development of five rowhomes will prevent such uses by the condominium; however there is additional vehicular access to the rear of those buildings, located off of E. Capitol Street.

Area Variance:

The Applicant requests variance relief from required parking requirements and required FAR and lot occupancy for the interior lots. Pursuant to DCMR 11§3103, variances from the zoning regulations can be authorized by the Board of Zoning Adjustment, so long as the following exceptions exist and detriment to the public good or zoning regulations do not result. Area variances allow for relief of requirements that affect the size, location, and placement of buildings and other structures such as height, floor area ratio, lot occupancy, yard width and depth, and minimum court size.

1. *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 Property exhibits uniqueness with respect to its irregular shape and small size; available access/frontage on only one side of the Property; steep topographical change at the western property boundary and need for retaining walls; and presence of a building restriction line. The confluence of these factors limits the developable land as well as vehicular access on to the Property, which causes a practical difficulty in the attempt to provide private parking onsite. Additionally, in order to meet FAR and lot occupancy requirements on each lot, an additional, narrower rowhouse type of less width would need to be designed for the three interior lots (Lots 2, 3 and 4). According to the Applicant, a row home designed with less than the proposed 18' width would preclude the opportunity for three bedroom rowhouse, which is part of the Applicant's goal for the Property. It would also increase the costs of development.

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

Relief can be granted without substantial detriment to the public good. With regard to parking, there appears to be adequate on-street parking opportunities; the Property is .2 miles from the Benning Road Metro Station; and the Property is in very close proximity to the bus lines of Benning Road SE and East Capitol Street. In terms of FAR and lot occupancy relief, the request would likely not be perceived in terms of impacts to light and air of adjacent neighbors. Additionally, the proposed development overall provides a .73 FAR and 36% lot occupancy, which is below the required FAR and lot occupancy requirements.

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

The granting of the requested relief will not impair the intent, purpose and integrity of the Zoning Regulations and Map because the proposed form of development is consistent with the intent of the zone and the request for FAR and lot occupancy relief affects only two and three lots, and not the project overall. With regard to parking relief, the small number of units and the close proximity to robust transit options as well as the availability of on-street parking would not cause substantial impairment to the integrity of the Zoning Regulations and Map.

VI. COMMUNITY COMMENTS

Adjacent Neighbors: At the time of the writing of this report, letters from adjacent neighbors have not been submitted to the record.

Ward/ANC: 7/7E. According to the Applicant, they have been meeting with ANC 7E which resulted in fairly significant changes to the originally-filed plans from a multi-family building to five rowhomes. The Applicant is tentatively scheduled to meet with the full ANC on January 31.

Attachment: Location Map

