

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Stephen Gyor AICP, Case Manager
JLS
Joel Lawson, Associate Director Development Review

DATE: December 2, 2014

SUBJECT: BZA Case 18877, variances to allow an addition to an existing one-family semi-detached dwelling in the R-4 District at premises 15 Brown Court, S.E.

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) **cannot support** the following variance relief:^{1 2}

- § 403.2 Lot Occupancy (40% max. required, 74.1% existing, 74.1% proposed); and
- § 2001.3 Non-conforming Structure.

The Application did not adequately explain what unique characteristic of the property creates a practical difficulty in this case. The Applicant has not provided information which establishes the necessity of an expansion of the second floor.

II. LOCATION AND SITE DESCRIPTION

Address	15 Browns Ct. SE (the "Subject Property")
Applicant	Jessica Crane (the "Applicant")
Legal Description	Square 870, Lot 853
Ward	6
Lot Characteristics	The rectangular lot is 79'-10" wide x 41'-1" deep, with a non-conforming 4'-1" rear yard. The Subject Property is located in the center of Square 870 and is bounded by Independence and A, 6 th and 7 th Streets, SE. The lot is surrounded on three sides by public alleys; on the north side, the Subject Property fronts on Browns Court SE, a 30 ft. wide public alley; on the east, it fronts a 15 ft. wide public alley, which connects to Independence Ave. SE; on the south side, the Subject Property fronts on an unnamed 10 foot wide public alley; at the west, the structure is attached to a single family rowhouse.

¹ According to the Zoning Administrator, the proposed second floor addition is conforming to the Zoning Regulations as it relates to § 404.4 (Rear Yard), because the proposed addition would sit entirely within the building footprint as it existed in 1958.

² A use variance under § 2507.2 (Alley Width) is not required as the Board previously found that no other use permitted in the R-4 District could reasonably be made of the Subject Property, and that the subject lot was more suitable for residential use than other uses which are permitted as a matter of right or by special exception under the Zoning Regulations.

Zoning	R-4 - Permits matter-of-right development of single-family residential uses (including detached, semi-detached, and row dwellings).
Existing Development	Existing two-story semi-detached single family structure, constructed in 1936 and formerly used as a garage. The structure was converted to residential use in 1976. The second story addition was constructed in 1982, pursuant to BZA case #13840. The existing residence occupies a footprint of 2,430 sf.
Historic District	Capitol Hill Historic District – the first floor of the existing building is a contributing structure.
Adjacent Properties	Adjacent properties are primarily comprised of alley rowhouses.
Surrounding Neighborhood Character	The neighborhood is characterized by rowhouses, including several located along alleys. Directly to the south of the Subject Property, across a 10 ft.-wide public alley, is the Evelyn, an 18-unit, 3-story condominium building. Immediately to the east of the Property, is 638 Independence Ave. SE, a 6-unit apartment building.

III. PROPOSAL IN BRIEF

Proposal:	The Applicant proposes to demolish the existing second story addition and to construct a larger second floor addition. The second floor would include four bedrooms, allowing the Applicant's entire family to sleep on one floor. Two garage spaces would also be included.
-----------	--

IV. ZONING REQUIREMENTS and RELIEF REQUESTED

R-4 Zone	Regulation	Existing	Proposed	Relief
Height § 400	30 ft. max.	20.67 ft.	25.75 ft.	None required
Lot Width § 401	30 ft. min.	79.8 ft.	79.8 ft.	None required
Lot Area § 401	3,000 sf. min.	3,281 sf.	3,281 sf.	None required
Floor Area Ratio § 402	None prescribed	NA	NA	None required
Lot Occupancy § 403	40% max.	74.1% (1 st floor) 39% (2 nd floor)	74.1% (1 st floor) 59% (2 nd floor)	Relief required
Rear Yard § 404	20 ft. min.	4.1 ft.	4.1 ft.	None required
Side Yard § 405	3": 1'; 8 ft. min.	14.2 ft.	14.2 ft.	None required
Court § 406	NA	NA	NA	None required



Subject Property

V. OFFICE OF PLANNING ANALYSIS

a. Variance Relief from § 403 Lot Occupancy and § 2001.3 Non-conforming Structure

i. Exceptional Situation Resulting in a Practical Difficulty

The Subject Property includes several unique conditions; however, it is unclear how these conditions contribute to a practical difficulty necessitating an expansion of the second floor. The Applicant states that given the existing building's nonconforming lot occupancy, bringing the existing structure into compliance with the regulations would require removing a portion of the existing first floor. However, the Subject Property is improved with a building predating the 1958 zoning regulations and

which is a contributing structure to the Capitol Hill Historic District, which limits the scope of modifications that could be made to the existing ground floor. Additionally, the lot is surrounded by alleys on three sides and is exceptionally large for the square. However, these factors do not necessarily result in a practical difficulty necessitating an expansion of the second floor.

Modification of the existing second story structure to accommodate the residents would be difficult. According to the Applicant, the second story addition was constructed with substandard materials and is in a deteriorated condition and cannot be preserved. However, these facts have no bearing on whether completely new construction should expand the existing lot occupancy on the second floor. Further, a building requiring renovation is not uncommon and typically does not comprise an exceptional situation.

The BZA order in case #13840 indicated that the Board found the existing nonconforming building, its type of construction, and its height, created an exceptional condition. Further, the Board found that the location of the lot and its size and shape constituted a hardship and practical difficulty for the owners. However, these exceptional conditions related to the construction of the existing second floor addition, and have no relation to a potential expansion of the second floor.

The Applicant noted that the proposed second story addition would be below the permitted lot occupancy for a special exception (the proposed footprint would be 59% lot occupancy, whereas 70% would be permitted by special exception), and that the addition would not increase the existing overall lot occupancy of 74.1%. Nevertheless, when constructing a vertical addition to an existing building the new story must meet all lot occupancy requirements for the zone.

In summary, the Subject Property includes several exceptional conditions, but the Applicant has not demonstrated that the exceptional conditions lead to an undue hardship in regard to the potential *expansion* of the second floor. The Applicant has not demonstrated that it is impractical to reconstruct the addition on the same footprint.

ii. No Substantial Detriment to the Public Good

The requested relief could be granted without detriment to the public good. The presence of an expanded second floor would not have a significantly different impact on the alley than the existing second floor. The immediately adjoining house to the west is two stories in height, and its east wall is a party wall with the subject building and has no windows. Further, the remaining three sides of the subject lot face alleys. In addition, the proposed addition should not hinder any alley movement. Lastly, the proposed addition would help to facilitate the expansion of family-size housing in the District, which the Office of Planning supports.

iii. No Substantial Harm to the Zoning Regulations

Granting variance relief would impair the intent and integrity of the zone plan as no uniqueness of property exist which immediately relates to the practical difficulty for the Applicant. No nexus has been established between the requested lot occupancy increase on the second floor and the practical difficulty in making use of the existing footprint. The proposed project would result in a level of development not anticipated in this zone.

VI. HISTORIC PRESERVATION

The Historic Preservation Review Board (HPRB) voted to support the proposed design on September 18, 2014.

VII. COMMUNITY COMMENTS

Letters in support of the application were submitted to the record by the neighbors residing at #11, #632, and #601 Browns Court SE.

At its regularly scheduled meeting on November 12, 2014, Advisory Neighborhood Commission (ANC) 6B voted 8-0-0 in support of the Applicant's above-referenced request.