



MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Maxine Brown-Roberts, Project Manager
JL Joel Lawson, Associate Director Development Review

DATE: January 6, 2015

SUBJECT: BZA Application 18895 – 1107 Penn Street, NE

I. OFFICE OF PLANNING RECOMMENDATION

The Applicant, James Walker, proposes deck and stair additions to an existing multifamily building at 1107 Penn Street, NE. The Applicant submitted a referral from the Zoning Administrator stating that the rear deck addition was to a single family residence and required a Special Exception under § 223. However, based on the Applicant's submission and OP's site visit, the building is a multifamily apartment building and therefore § 223 is not applicable. The Applicant was informed by OP that an addition to an existing multifamily building in the R-4 zone that does not meet the requirements would require variance relief as follows:

- § 403.1, Lot Occupancy (63.7% proposed, 40% maximum allowed);
- § 404.1, Rear Yard (4.5 feet proposed, 20 feet minimum required); and
- § 2001.3, Expansion of a non-conforming structure.

The proposal does not appear to result in the creation of additional residential units within the building, which could require additional relief. To date, the applicant has not presented any information to address the variance test for the deck addition when access can be provided by landings and stairs. Without adequate justification, OP does not support a deck addition that would extend the already non-conforming lot occupancy and diminish the existing non-conforming rear yard.

II. AREA AND SITE DESCRIPTION

Address:	1107 Penn Street NE
Legal Description:	Square 800, Lot 4059
Ward/ANC:	5/5D
Lot Characteristics:	The lot is nearly rectangular in shape and measures approximately 2,616 square feet in lot area. It has frontage on Penn Street to the north and abuts 16-foot wide public alleys to the west and south and an apartment building to the east.
Zoning:	R-4: row dwellings (single-family and flats)
Existing Development:	The property is developed with a two-story apartment building.
Historic District:	The property is not within a historic district.



Adjacent Properties:	The north and east of the site are two-story apartment buildings in the R-4 zone. To the west and south are single family row dwelling some of which have been converted to apartments in the R-4- zone
Surrounding Neighborhood Character:	The surrounding neighborhood is predominantly two-story, rowhouses many of which have been converted to multifamily residences. The area is to the east of Gallaudet University.

III. IMAGES AND MAPS



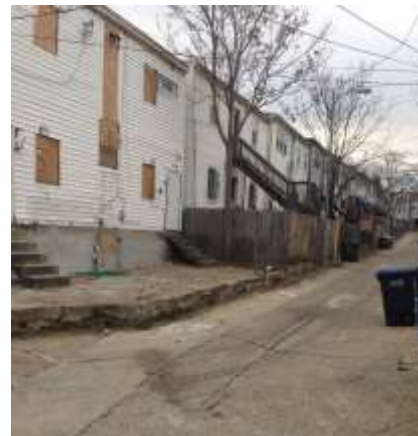
Site Location



Front of Building



Rear of Building



Rear of buildings along the alley

IV. PROJECT DESCRIPTION

The Applicant proposes to construct decks on the rear of the building to serve the units on both floors in addition to a staircase connecting the first and second floors and two sets of stairs from the first floor to the ground level. The second floor deck measures approximately 31 feet x 7.33 feet and is elevated 13.3 feet above the ground level and when the railings are included would be 16.4 feet above the ground. The deck at the first floor level would be 31 feet x 10 feet and would be 3.4 feet above ground level. The decks would connect to new rear doors for each unit.

V. ZONING REQUIREMENTS

The following table, which reflects information supplied by the Applicant, summarizes zoning requirements for the project and the relief requested.

<i>R-4 Zoning</i>	<i>Restriction</i>	<i>Existing</i>	<i>Proposed</i>	<i>Relief</i>
Lot area (sq. ft.)	1,800 sq. ft	2,616 sq. ft	2,616 sq. ft.	Conforming for a row dwelling or flat
Lot width (ft.)	18 ft. min.	36.51 ft.	36.51 ft.	Conforming
Lot occupancy (building area/lot)	40% max. ¹	55.06%	62.7%	Relief required
Rear yard (ft.)	20 ft. min.	15 ft.	4.5 ft.	Relief required

In R-4 zones, deck additions are permitted subject to applicable zoning constraints. The proposal would involve the construction of elevated decks, one of which would be within half a foot of the rear property line and increasing the site's lot occupancy from 55.05% to 62.7%. As a result, rear yard, lot occupancy, and expansion of a non-conforming structure zoning relief are needed.

Area Variance Relief (§§ 403, 404, & 2001.3)

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

The Applicant has not demonstrated any specific uniqueness of the property or exceptional situation resulting in an exceptional situation related to the deck addition. The building currently has a lot occupancy that is greater than allowed in the R-4 zone and therefore any addition would expand the nonconformity. The provision of rear access similar to what exist on the first floor is allowed by § 2503, and would not need relief. Section 2503 provides: "Stairs leading to the ground from a door located on the story in which the principal entrance of a building is located may occupy any yard required under provisions of this title. The stairs shall include any railing required by the provisions of the D.C. Construction Code." However, the second floor access would not be permitted. As seen on the photograph on Section III above, none of the apartments along the alley have upper floor decks, but instead has a staircase extending to the ground level.

¹ R-4 permits 60% lot occupancy for a rowhouse or for a rowhouse conversion. In this case, the building is a multi-family building, and the lot is not large enough for a conversion to multi-family, so OP is assuming that the building predates current regulations and was constructed as a multi-family building. As such, it is limited in the zoning regulations to a lot occupancy of 40% maximum (as one of the "all other uses"). However, the proposed deck addition would be non-conforming to lot occupancy for either a rowhouse conversion or a multi-family building.

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

The rear portion of the building is set back from the adjacent property, 1107 Penn Street, and the decks would not extend beyond the setback. Neither deck would appear to significantly impede light nor air to that property as the railings would be open allowing for light and air to pass through. There is also a privacy fence between the two properties that would help to conceal any visibility from the ground level deck into adjacent properties, while a large tree on the property line would limit visibility from the upper level deck.

- **Substantial Harm to the Zoning Regulations**

As presently proposed, granting relief would impair the intent, purpose and integrity of the Zoning Regulations and Map. The Applicant should explore a more conforming access design or provide additional evidence satisfying the variance test.

VI. AGENCY COMMENTS

The Department of Transportation (DDOT) has submitted a report (BZA Exhibit 22) indicating that they have no objection to the project.

VII. ANC COMMENTS

The property is within ANC 5D. To date, OP has not received any information pertaining to this case from the ANC or neighborhood residents.