

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Stephen Gyor AICP, Case Manager
 Joel Lawson, Associate Director Development Review
DATE: April 7, 2015

SUBJECT: BZA Case 18974, application for a variance to allow the conversion of an existing building to a three-unit apartment building in the R-4 District at premises 3209 13th Street N.W.

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) is **not opposed** to the following variance from § 401.3:

- R-4 Districts: General Provisions (2,700 square feet min. or 900 sq. ft. / unit required; 2,625 square feet existing; 2,625 square feet, or 875 sq. ft. / unit proposed).

Typically, OP does not support zoning relief for residential conversions in the R-4 zone when the proposed lot area per unit would be less than the minimum 900 square feet as required by § 401.3.

Limited practical difficulty has been established and it is beyond the scope of the Regulations to grant relief in anticipation of a higher return on an applicant's investment and not in response to an established practical difficulty derived from the property's unique condition. However, the overall zoning relief requested would comprise only 75 square feet, or 2.8%, of the total required lot area. This is only slightly more than the flexibility provided to the Zoning Administrator (2%) for lot area. As such, although the practical difficulty associated with this site seems very limited, the amount of relief needed is also very small. Therefore, OP is not opposed to the Applicant's proposal.

II. LOCATION AND SITE DESCRIPTION

Address	3209 13 th Street NW (the "Subject Property")
Applicant	Jarek Mika (the "Applicant")
Legal Description	Square 2844, Lot 818
Ward	1
Lot Characteristics	The rectangular lot is 140 feet deep and 18.7 feet wide along the 13 th Street NW frontage. A 10 foot wide alley is located to the rear.
Zoning	R-4 - row, one-family detached and semi-detached dwellings.

Existing Development	Three-story two-unit row dwelling, permitted in this zone. The existing building was constructed in 1911, and an act of condemnation subdivided out a portion (187.54 square feet) of the lot for purposes of a public alley in 1913. Previous Certificates of Occupancy indicate that the Subject Property was previously used as a rooming house and a community residence facility.
Historic District	NA
Adjacent Properties	Adjacent properties include three-story row dwellings. The Subject Property fronts on 13 th Street at its western boundary and abuts an improved 10 foot public alley at its eastern boundary, and rear lot line.
Surrounding Neighborhood Character	The neighborhood is characterized by row dwellings and multifamily apartment buildings.

III. APPLICATION IN BRIEF

The Applicant proposes to convert an existing two-unit row dwelling into a three-unit apartment house or condominium. The existing building consists of four floors (basement, first, second, and third floors) and an attic space spread over approximately 4,000 square feet of gross floor area plus attic. The Applicant proposes to convert the building through reconfiguration of the building, including a limited conforming addition, by retaining the basement (1,200 square feet) and first floor (1,096 square feet) units, and converting the upper floors into one owner occupied unit (1,934 square feet). The Applicant proposes to convert the attic space into a mezzanine and to add a rooftop balcony over an existing nonconforming open court. The Project would provide two off-street parking spaces accessible from the public alley.

IV. ZONING REQUIREMENTS and RELIEF REQUESTED

R-4 Zone	Regulation	Existing	Proposed	Relief
Height § 400	40 ft. max.	33 ft.	33 ft.	None required
Lot Width § 401	18 ft. min.	18.7 ft.	18.7 ft.	None required
Lot Area § 401	2,700 sf. min.	2,625 sf.	2,625 sf.	Relief required
Floor Area Ratio § 402	None prescribed	NA	NA	None required
Lot Occupancy § 403	60% max.	52%	52%	None required
Rear Yard § 404	20 ft. min.	30 ft.	30 ft.	None required
Side Yard § 405	NA	NA	NA	None required
Court § 406	NA	4.16 ft.	4.16 ft.	Existing nonconforming



Subject Property

V. OFFICE OF PLANNING ANALYSIS

a. Variance Relief from § 330.5(e) R-4 Districts: General Provisions

i. Exceptional Situation Resulting in a Practical Difficulty

The R-4 zone is designed to include areas developed primarily with row dwellings, but also permits the conversion of a rowhouse to apartments, provided that the lot area per unit is a minimum of 900 square feet.

The Applicant states that the practical difficulty is that if the building were to be retained as two units, the resultant unit size of over 2,000 square feet would not only be impractical but also unmarketable in an area dominated by smaller-sized units. Further, the Applicant notes that prior Certificates of Occupancy indicate that the building was previously used as a rooming house and a community residence facility.

While the Applicant may not be able to legally build three units and potentially maximize a return on investment, this is neither a requirement nor an expectation of

this in the zoning, and there is no nexus with an exceptional situation on the Subject Property. Further, the previous certificates of occupancy are also irrelevant since the structure is currently configured for two units.

Although the building conforms to zoning height and lot occupancy limits, it is relatively large for a site this size, due to the full habitable basement, with over 4,000 square feet of area (not including the current attic space or the conforming additions that the applicant wishes to also construct). This, combined with the small amount of relief needed (the proposal would be only 20.3 square feet above the 2% flexible authority of the Zoning Administrator as set forth under § 407.1) may present some practical difficulty. Further, there may also be some internal configuration issues that result in some practical difficulty. The most logical way to update this building and retain it as a conforming flat would be to connect the basement and ground floor levels into one unit, but there is currently no internal connection between these two levels. While the Applicant, according to the submitted plans, intends a fairly comprehensive reconfiguration and redesign of the lower floors, this may create some limited practical difficulty.

ii. No Substantial Detriment to the Public Good

The proposed relief should not cause substantial detriment to the public good. Section 330.3 of the Zoning Regulations, General Provisions for the R-4 District, states that its “*primary purpose shall be the stabilization of the remaining one-family dwellings.*” Typically, OP opposes the establishment of an apartment house use within the middle of a block where no others exist. Apartment conversions do not contribute to the stabilization of the R-4, but instead often introduce more intense residential uses in neighborhoods, increase the density in squares beyond that anticipated by the zoning, and alter the character of neighborhoods.

However, in this case the Applicant intends to add a single additional unit and there are apartment buildings on adjacent squares to the north and west. The proposed additions to the building are relatively minor, conform to zoning parameters, and would not increase building height or lot occupancy or be visible from the street. Given the existing density and lot sizes prevalent in the area, a third unit should not significantly alter the character of the neighborhood.

iii. No Substantial Harm to the Zoning Regulations

Section 199.1 of the Zoning Regulations defines apartment houses as buildings in which there are three or more apartments. Section 330.3 of the Zoning Regulations states that “*The R-4 District shall not be an apartment house district.... since the conversion of existing structures shall be controlled by a minimum lot area per family requirement.*” Nine-hundred square-feet of lot area is the minimum required per dwelling unit in order to convert a structure. The regulation is intended to allow for the reasonable conversion of existing large structures in the R-4 zone that are considered too large for current living standards, not to allow for speculative conversions of typically sized row houses into apartment buildings. In this case, reducing that number by 75 square feet, or 2.8 percent of the minimum lot area

required to add a third unit would not significantly increase the density otherwise permitted within the R-4 zone. Therefore, the granting of the requested variance would not result in substantial harm to the Zoning Regulations.

VI. COMMUNITY COMMENTS

As of this writing, comments from the ANC and the immediate neighbors have not been submitted into the record.