

MEMORANDUM

TO: District Board of Zoning Adjustment

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

DATE: June 9, 2015

SUBJECT: BZA 19014 - Request to convert a building from an arts studio to a single family residential on an alley lot at 320 3rd Street, NE (Rear)¹

I. OFFICE OF PLANNING RECOMMENDATION

The Applicant, Gary A Robinson, proposes to convert an existing structure on a T-shaped internal lot located on a 10-foot wide alley to a single family residence. The Applicant requested an area variance from the requirements of § 2507.3. The Office of Planning (OP) believes that the appropriate relief is a use variance under § 2507.1, as this is more consistent with past similar cases for the conversion of an existing building to a residence on an alley less than 30 feet in width. OP has informed the applicant of this, and has analyzed the application accordingly.

OP **cannot support** the proposed conversion of an existing structure to residential use abutting 10-foot wide alleys. The Applicant has not met the burden of proof for the use variance, as it has not been adequately demonstrate that there is uniqueness to the property that causes the owner an undue hardship or that the proposal would not harm the intent of the current regulations.

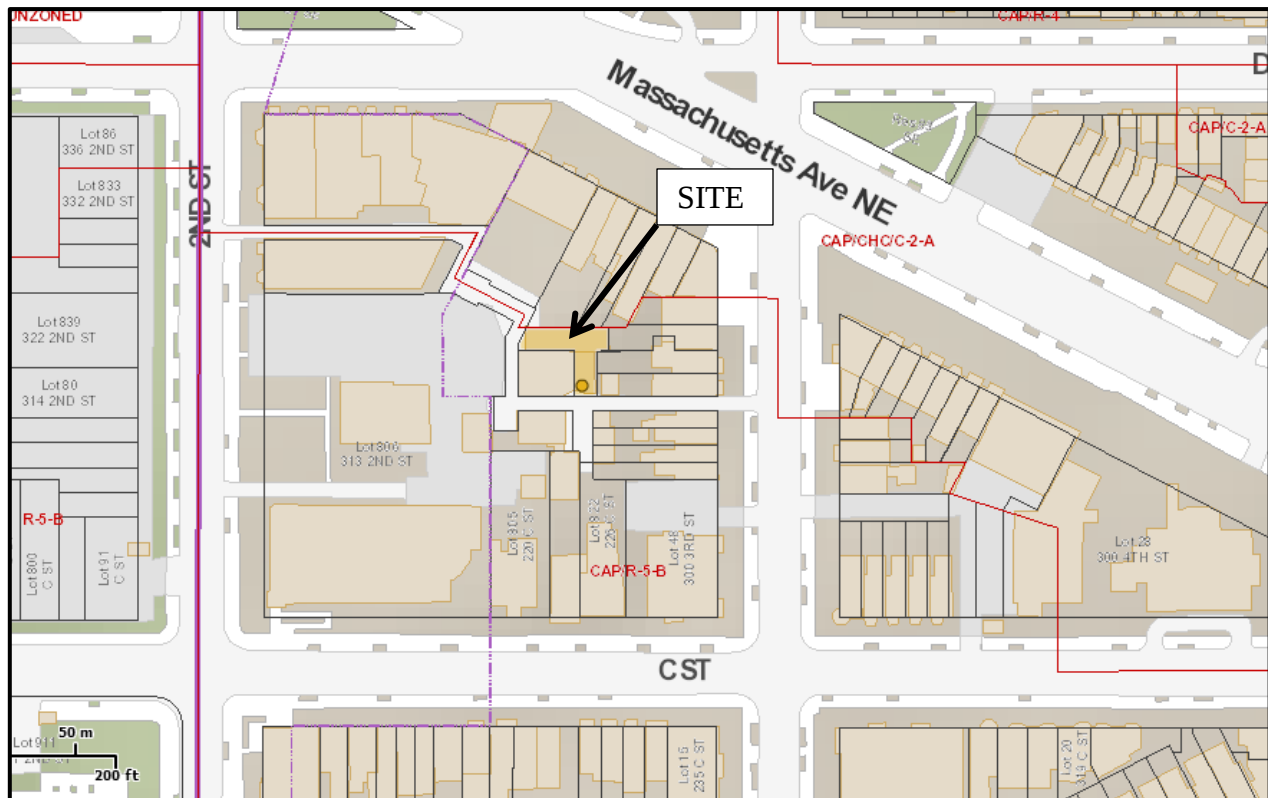
II. LOCATION AND SITE DESCRIPTION

Address	320 3 rd Street, NE (Rear)
Legal Description	Square 0756 , Lot 826
Ward/ANC	6/6C
Lot Characteristics	The property is a “T” shaped lot with an area of 1,633 square feet. On the northwestern side it abuts a 10-foot portion of an alley that extends to 2 nd Street, NE with varying widths. The southern portion of the property abuts another portion of the alley system which is 10-foot wide and extends to 3 rd Street, NE.
Zoning	CAP/R-5-B CAP: The CAP Overlay District was established to promote and protect the public health, safety, and general welfare of the U.S. Capitol precinct and the adjacent areas. The District restricts some of the permitted uses. R-5-B: residential development at a moderate height and density.
Existing Development	The building is three (3) stories on the northern portion and two and a half (2.5) stories on southern portion.

¹ The original application had the property address as Rear 318 3rd Street, NE. The Applicant states that DCRA has subsequently assigned Rear 320 3rd Street, NE as the address.

Historic District	Capitol Hill Historic District
Adjacent Properties	To the north, fronting on Massachusetts Avenue, NE are offices and residential uses with building heights up to 4 stories in the CAP/CHC/C-2-A zones. To the east and southeast are 2-story row houses. To the south west is a warehouse/industrial building while to the west is the St. Joseph's Catholic Church campus all in the CAP/R-5-B zone.
Surrounding Neighborhood Character	Generally, to the north of the property is a mixture of office, retail and apartments and flats. East and south are also a mixture of rowhouses and apartments while to the west is St. Joseph's Catholic Church campus and Hart Senate offices.

Site Location



III. APPLICATION IN BRIEF

The application requested relief to allow the conversion of a currently vacant building, most recently used for an artist studio, cabinet shop and antiques on an alley lot in the CAP/R-5-B district. The self-certified request was for area variance relief from § 2507.3, but a review of past cases indicated that the more appropriate form of relief would be use variance from § 2507.1.

IV. ZONING

The subject site is zoned CAP/R-5-B. The R-5-B zone generally permits all types of urban residential developments at a moderate height and density. However, no single-family dwellings are permitted to be “erected or constructed on an alley lot unless the alley lot abuts an alley thirty feet (30 ft.) or more

in width and has from the alley access to a street through an alley or alleys not less than thirty feet (30 ft.) in width” (§ 2507.2). Further, “nonresidential structures located on these alleys shall not be converted, altered, remodeled, restored, or repaired for human habitation, regardless of cost” (§ 2507.3). Additionally, artist studios are permitted by right on alley lots, while “storage of wares and goods, parking lot, parking garage or public storage garage” are permitted subject to special exception relief and are not subject to a defined minimum alley width. However, parking lots, and public storage are prohibited in the CAP zones (§ 1201.3). A parking garage would continue to be a use by special exception.

The table below shows the requirements of the CAP/R-5-B zones and that the building is non-conforming to all the area requirements. The Applicant does not propose any expansion or demolition which would change any of the existing dimensions.

CAP/R-5- B Zones	Regulation	Existing	Proposed ²	Relief
Height (ft.) § 400.1	50 feet	39 ft.	39 ft.	Existing Non-conformity
FAR § 402	1.8	2.26	2.26	Existing Non-conformity
Lot occupancy § 403	60%	100%	100%	Existing Non-conformity
Rear Yard § 403	Not less than 15 ft.	0	0	Existing Non-conformity
Side Yard § 405	8 ft.	0	0	Existing Non-conformity
Parking spaces § 2101	1	0	0	Grandfathered
Use § 2507.1	One-family residence abutting a 30-ft. wide alley	Vacant	Residence	Use Variance

V. OFFICE OF PLANNING ANALYSIS

The Applicant is not proposing any building expansion, rather to use the existing building as a residence. As such, the Applicant requests area variance relief from § 2507.3 to permit the conversion of a non-residential building to a single family residential dwelling with access to the street via an alley narrower than 30’ in width.

Use Variance (§ 2507.1)

The area variance requirements pursuant to § 3103.5(d) to be met are as follows:

- 1. Does the property exhibit specific uniqueness with respect to exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situations or conditions which results in an undue hardship on the owner.**

The property is “T” shaped and abuts the 10-foot wide alley system at two points. The applicant states that (a) the unusual shape of the site; (b) the small size of the lot; and (c) the unique location along multiple alleys of varying widths all affect the site. The 2-story portion of the building was

² Information provided by Applicant.

constructed in 1911 while the 3-story portion was constructed in 1905 and therefore significantly predates the current regulations.

However, the Applicant has not adequately demonstrated that there is a nexus of exceptional practical difficulties between these conditions of the site and the inability to continue to use the building for the existing or other permitted use. The Applicant states that an artist studio would not provide a positive cash flow and had provided a financial worksheet (Exhibit 30D1). Information pertaining to a number of artist studios in the City was provided (Exhibit 30D2) but the Applicant did not provide any relevant comparison to the artist studio that they said could not operate on the property.

The applicant states that due to the shape of the property, a parking garage, a special exception use, could only accommodate two parking spaces and therefore is not viable.

2. The variance will not cause substantial detriment to the public good.

There are no other alley dwellings within this square, but the proposed single family residential use would not appear to be out of character to adjacent residential uses residential uses. However, the District of Columbia Fire and Emergency Medical Service (DC FEMS), Section VI below, has expressed some concerns about the proposal, including the necessity to sprinkler the entire building and address all the concerns of DC FEMS at this time to sufficiently demonstrate that there would be no undue impact on the public good.

3. The variance will not impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

The conversion of this building for human habitation along alleys measuring less than 30 feet is not consistent with the intent of the current regulations, intended to limit alley dwellings. This was at least partly to address health and fire safety concerns, as well as neighborhood character.

VI. AGENCY COMMENTS

District of Columbia Fire and Emergency Medical Service

The District of Columbia Fire and Emergency Medical Service (DC FEMS) reviewed the proposal and submitted the following comments to OP in an email on June 3, 2015. Generally, DC FEMS, Office of the Fire Marshal, has no objection to the permit application being approved if the following requirements are adhered to:

- (a) Fire department access is to be maintained to the proposed building (320 3rd Street) and all surrounding properties that may be impacted by this construction project in accordance with Chapter 5, Fire Service Features, Section 503 “Fire Apparatus Access Roads” in the 2012 International Fire Code.
- (b) The requirement is that Fire Department access (Fire Lane) shall be maintained at minimum 20 feet wide with a 13.5 feet vertical clearance and be located within 150 feet of the structure. The alleyways around this proposed structure are 10 to 15 feet wide at different points and do not meet this requirement. If the structure is equipped

with sprinklers, the 150' requirement may be reduced. In this case the true fire access road would be 3rd Street.

- (c) Access to the rear portion of the building would be somewhat compromised and difficult due to property location and the configuration of the alleyway.

In subsequent conversations with DC FEMS, it was requested that the Applicant provide additional information demonstrating that the building would be sprinklered and that conditions outlined above would be satisfied.

Capitol Hill Historic District

The property is within the Capitol Hill Historic District. The Applicant states that there will be minor alterations made to the exterior of the building and have been working the Historic Preservation Office (HPO) on replacing windows with more historically accurate ones and restoring the former garage entrance on the west side.

DC Water

The application was referred to DC Water, however, to date, a response has not been received.

VII. COMMUNITY COMMENTS

The property is within ANC 6C. On June 3, 2015, the project was recommended for approval by the PZE Committee of ANC 6C which recommended approval. Review by the full ANC-6C is scheduled for June 10, 2015, subsequent to the filing of this report.

JS/mbr