

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Karen Thomas, Case Manager
 JL Joel Lawson, Associate Director Development Review
DATE: June 16, 2015

SUBJECT: BZA Case 19018 - request for variance relief pursuant to §§ 404 and 2001.3 to enlarge an existing 2nd floor deck and construct a 3rd floor deck to a flat at 2026 North Capitol Street, N.W.

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends **cannot recommend approval** of the requested relief from Section 2001.3 to enlarge an existing deck and construct a third story deck, on the nonconforming structure, which exceeds the permitted lot occupancy (§ 403.2 – 60% maximum permitted; 78% existing).

II. LOCATION AND SITE DESCRIPTION

Address:	2026 North Capitol Street NW
Legal Description:	Square 3117, Lot 0834
Ward:	5E
Lot Characteristics:	The subject lot (property) is rectangular in shape and measures 20 feet in width by 100.5 feet in length. The property fronts North Capitol Street NW to the east and a 15-foot wide public alley to the south.
Zoning:	R-4 – detached, attached, semi-detached, single family dwellings and flats.
Existing Development:	Three-story with cellar, flat, permitted in this zone.
Adjacent Properties:	Attached row dwellings.
Surrounding Neighborhood Character:	Attached row dwellings.



III. PROJECT DESCRIPTION IN BRIEF

Applicant:	North Capitol #2 Land Trust, property owner
Proposal:	The applicant is seeking variance relief to legitimize, for zoning purposes, enlargement of an existing second story deck and construction of a third story deck, on the recently renovated nonconforming structure.
Permit History	District records show that permits were issued between 2014/08/27 and 2014/10/20 for plumbing and electrical work for the home's renovation. A Stop Work Order was issued on 2014/10/24. All permits including plumbing mechanical, electrical and Building permit were issued on 2015/02/11 (See attachment). A temporary Certificate of Occupancy was issued on 2015/04/07 for the use of the two-family flat pending the outcome of this variance request.
Relief Sought:	Area variance pursuant to 11 DCMR § 3103.2: variances from the addition to a nonconforming structure to permit an enlarged 2 nd story deck and addition of a third story deck.

IV. ZONING REQUIREMENTS

R-4 Zone	Regulation	Existing	Proposed ¹	Relief:
Height (ft.) § 400	40 ft. max. 3 stories	< 40 ft. 3 stories	< 40 ft. 3 stories	None required
Lot Area (sq. ft.) § 401	1,800 sq. ft. min.	2,001 sq. ft.	2,001 sq. ft.	None required
Lot Occupancy (%) § 403 and § 2001.3	60 % max.; 70% max. per § 223	78%	78%	Relief required
Rear Yard (ft.) § 404	20 ft. min.	31 ft. 4 in.	No change	None required

Section 2001.3 requires that enlargements or additions may be made to the structure provided that: the structure conforms to percentage of lot occupancy requirements; the addition conforms to use and structure requirements and the nonconforming aspect of the structure neither be increased or extended.

V. OP ANALYSIS: Variance Relief from §§ 403.2 and 2001.3

The applicant proposes to legitimize, for zoning purposes, the construction of a second and third level deck additions to an existing nonconforming residential structure. The structure is nonconforming due to its lot occupancy of 78% within the R-4 District.

¹ Information provided by applicant.

i. Exceptional Situation Resulting in a Practical Difficulty

The property exceeds lot area requirements for the zone and is a standard rectangular shape. The house is nonconforming due to its lot occupancy at 78% - this non-conformity existed prior to the structure's renovation due to the first level deck, but the second story deck expansion and the addition of a new third floor deck expands this non-conformity. The property has been recently purchased by new owners on 4/30/2015, who were not involved in the renovation of the flat, and who may have believed that the residence as constructed, marketed and sold in compliance with issued permits.

However, a nonconforming house is not in itself an exceptional situation which typically creates a practical difficulty, as the home was not renovated according to issued building permits. The decks were added through a claim of contractor error taken beyond what the permit allowed. OP does not consider contractor error an exceptional situation of the lot, and there does not appear to be any condition associated with either the lot or the development on the lot that creates an exception situation resulting in a practical difficulty.

ii. No Substantial Detriment to the Public Good

Despite the extent of the three stories of decks, there would not appear to be substantial detriment to the public good. The decks should not unduly adversely impact light, air or privacy to neighboring properties, as they do not extend beyond the abutting property to the north.

iii. No Substantial Harm to the Zoning Regulations

In this case, the lot occupancy of 78% existed prior to renovation of the home only on the ground floor. The Zoning Administrator informed the applicant that the third-story deck should be removed and the size of the second-story deck should be reduced, as they were considered non-conforming additions to a nonconforming structure.

As such, relief cannot be granted without detriment to the Zoning Regulations, as no exceptional situation of the property exists that would result in a practical difficulty for the applicant in renovating the home, as was prescribed by the Zoning Administrator in February 2015. The lot size exceeds the minimum 1,800 square feet and what is built is greater than what is anticipated by the zone.

VI. COMMUNITY COMMENTS

OP was informed that the Bloomingdale Civic Association voted to oppose the requested application at its meeting held on June 15, 2015. The ANC5E is anticipated to meet on June 16, 2015.

VII. COMMENTS OF OTHER DISTRICT AGENCIES

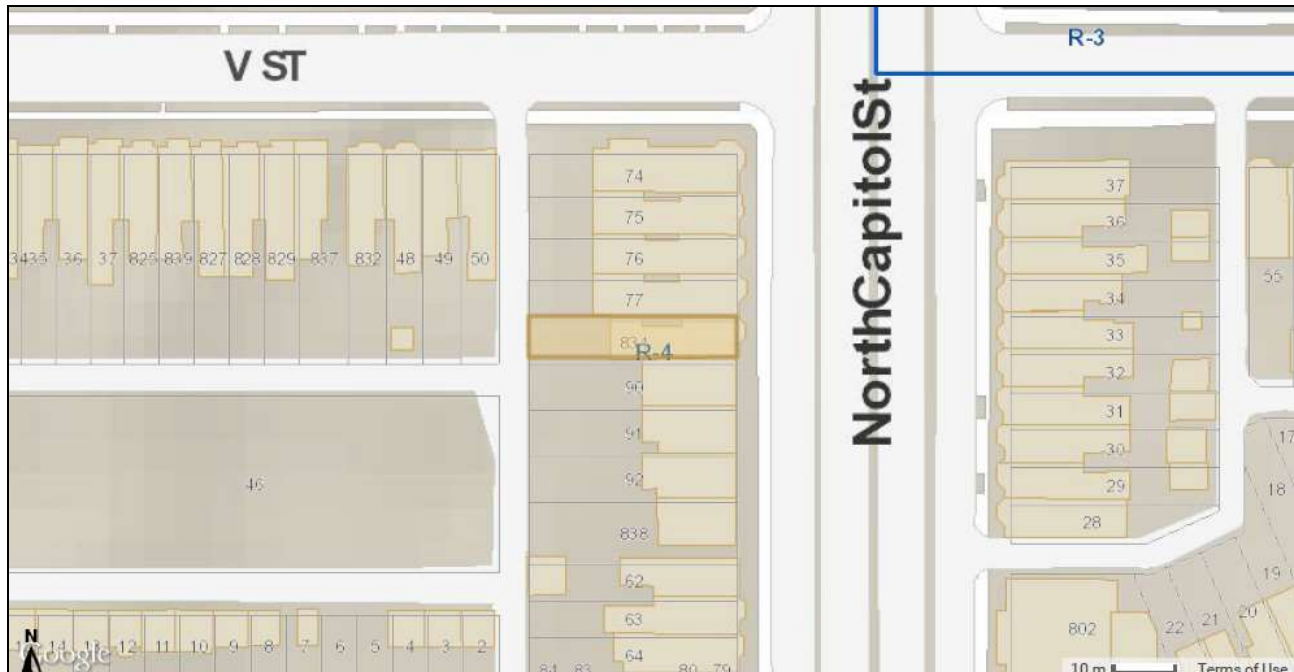
Comments had not been received from other agencies at the time this report was written.

Attachments:

Location map, Permit Log

Issued Permits 2014-2015

Address	Unit	SSL	ID	Type	Date Issued	Status	Status Date	Detailed Description
2026 NORTH CAPITOL ST NW		3117 0834	B1405649	Construction/Alteration and Repair	2014/04/07	Permit Issued	2014/04/07	Alteration and Repair of a 2 Family flat.
2026 NORTH CAPITOL ST NW		3117 0834	B1408394	Construction/Addition Alteration Repair	2014/08/08	Completed	2015/02/11	Addition for the Attic and renovation of rear deck stairways.
2026 NORTH CAPITOL ST NW		3117 0834	B1409297	Construction/Alteration and Repair	2014/07/03	Completed	2015/02/11	Replace Slab
2026 NORTH CAPITOL ST NW		3117 0834	B1500188	Construction/Alteration and Repair	2014/11/12	Completed	2015/02/18	Roof Deck
2026 NORTH CAPITOL ST NW		3117 0834	B1504334	Construction/Alteration and Repair	2015/02/10	Permit Issued	2015/02/10	REPAIR EXT GARAGE ROOF DECK
2026 NORTH CAPITOL ST NW		3117 0834	E1407359	Supplemental/Electrical	2014/07/21	Completed	2015/02/11	
2026 NORTH CAPITOL ST NW		3117 0834	M1500241	Supplemental/Mechanical	2014/10/24	Completed	2015/02/11	
2026 NORTH CAPITOL ST NW		3117 0834	P1407043	Supplemental/Plumbing and Gas	2014/07/16	Completed	2015/02/11	



LOCATION and ZONING MAP