

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Megan Rappolt, Case Manager
 JL Joel Lawson, Associate Director Development Review
DATE: June 30, 2015

SUBJECT: BZA Case #19037- Variance relief under §3103 to construct a two-story deck to an existing row house dwelling located at 1375 Massachusetts Ave. SE

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (“OP”) is not opposed to the following variance relief pursuant to §3103:

- §403.2, Percentage of Lot Occupancy (60% required, 88% existing, 100% proposed);
- §404, Rear Yard (20’ required, 2’ existing, 1’ proposed);
- § 406.1, Courts (6’ minimum in width is required, 9’-8” (west) and 1’-8” (east) existing, 1.5’ and .5’ proposed) existing to be extended a length of 6’-3”); and
- § 2001.3 Nonconforming Structures Devoted to Conforming, as certain nonconforming aspects of the lot (lot occupancy, rear yard and courts) will be furthered with the requested two-story deck.

In recent case #18556, the BZA previously denied after-the-fact relief to allow for an enclosed porch constructed without a permit on the Property, with lot occupancy of 96% and a rear yard of 1.2 feet. OP recommended denial of that case, and the BZA determined the Property was not faced with an exceptional situation. The Applicant removed the porch upon denial of the BZA and now pursues relief of a two-story unenclosed deck.

II. LOCATION AND SITE DESCRIPTION:

Address:	1375 Massachusetts Ave., SE
Legal Description:	Square 1037 Lot 102
Ward/ANC:	6/6B
Lot Characteristics:	The rectangular lot is 818 sf in area and has a frontage of 20 feet on Massachusetts Ave. NE. The rear of the lot is 18 feet in width. The lot does not have alley access and rear yard meets adjacent rear yards.
Zoning:	R-4 – row, one-family detached and one family semi-detached dwellings.
Existing Development:	Row dwelling, permitted in this zone.
Historic District:	Capitol Hill

Adjacent Properties:	Predominantly row dwellings. Lincoln Park is located a block to the northwest and the Bryan School PUD is located to the south of the Square.
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III. PROJECT DESCRIPTION IN BRIEF

Applicant	Derek S. and Jennifer T. Mattioli
Proposal:	The Applicant requests an approximately 210 sf, new two-story (20') deck.
Relief Sought:	§3103– Variance

IV. ZONING REQUIREMENTS

R-4 Zone	Regulation	Existing	Proposed ¹	Relief:
Height (ft.) § 400	40 ft. max.	≤ 40 ft.	No change	None required
Lot Width (ft.) § 401	18 ft. min.	20 ft.	20 ft.	None required
Lot Area (sq.ft.) § 401	1,800 sf. min.	818 sf	818 sf	Existing nonconformity ; None required
Floor Area Ratio § 402	None prescribed	N/A	N/A	None required
Lot Occupancy § 403.2	60% max.	86%	100 %	Relief required
Rear Yard (ft.) § 404	20 ft. min.	2 ft.	1 ft.	Relief required
Side Yard (ft.) § 405	0 ft. min.	0 ft.	0 ft.	None required
Open Court Width (ft.) §406.1	6' minimum	9'-8" (west) and 1'-8" (east)	1.5' and .5' for a length of 6'-3"	Relief Required

V. OP ANALYSIS:

The Applicant requests area variance relief from required lot occupancy, rear yard depth and open court width minimum requirements. Pursuant to DCMR 11§3103, variances from the zoning regulations can be authorized by the Board of Zoning Adjustment, so long as the following exceptions exist and detriment to the public good or zoning regulations do not result. Area variances allow for relief of requirements that affect the size, location, and placement of buildings and other structures such as height, floor area ratio, lot occupancy, yard width and depth, and minimum court size. Additionally, relief from 2001.3 Nonconforming Structures Devoted to Conforming Uses is also required as the existing lot occupancy exceeds the maximum lot occupancy requirement and the addition furthers the nonconformity.

¹ Information provided by the Applicant.

1. Does the property exhibit specific uniqueness with respect to exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situations or conditions, and does the extraordinary or exceptional situation impose a practical difficulty, which is unnecessarily burdensome to the applicant?

The Property exhibits an exceptional condition with regard to the size of the lot and location of the lot on Square 1037 which poses a practical difficulty in meeting the maximum lot occupancy and minimum rear yard requirements. OP's position in the previous case # 18556 was that the property did not exhibit a unique circumstance resulting in a practical difficulty was based on the constructed addition being an enclosed porch, constructed without the required permissions. In this case, the Applicant seeks relief prior to pursuit of a permit for a reasonable-sized deck, which is a less-permanent structure than an enclosed structure. Additionally, OP has revisited all the facts related to the Applicant's lot and lots in Square 1037. OP has also made two additional site visits to analyze the lot and Square. The Applicant's lot is 818 sf which is approximately 739 sf smaller than the average lot size of 1557 sf within Square 1037. While there are other non-conforming small lots in Square 1037 and in Capitol Hill in general (as stated in OP's report for case #18556), the Applicant's is one of the smallest: it is the 5th smallest lot of 73 lots in Square 1037 and is currently built to 86% lot occupancy. If the average size lot of 1557 sf in Square 1037 was built to the maximum 60% lot occupancy, a residence and deck would occupy 934 sf, which is 116 sf greater than the Applicant's lot size. With regard to court relief, OP asked the Applicant if the proposed deck could be constructed without courts, which are not required. Due to rear yard improvements on both adjoining properties, court relief would allow for adequate space to construct the proposed two-story deck.

2. Can the relief be granted without substantial detriment to the public good?

Relief could likely be granted without substantial detriment to the public good, although a one story deck, as opposed to the proposed two story deck, would have less impact and therefore be more supportable. The proposed style and materials (wrought iron and wood) of the two-story deck, which will be visible from Independence Ave SE, appear to be consistent with the established character of the immediate neighborhood and more specifically, the character of the rear yard areas adjacent to the Applicant's property, which is primarily pressure-treated wood decking. The Applicant continues to work with Historic Preservation staff regarding the design of the deck, which they did not do in BZA case #18556.

There is very limited usable outdoor space among the seven lots whose rear yards are adjacent to each other in the acute, narrow point of the triangularly-shape of Square 1037. The seven adjacent lot sizes range from 820 sf to 746 sf, which are the smallest lots on the Square. Some of these lots include privacy fences and others have decks. The four most-affected neighbors, residing at 1364 and 1366 Independence Ave. SE and 1373 and 1377 Massachusetts Ave. SE (also located in the acute point of the Square), have all entered letters of support of the Applicant's request. Per the Applicant, there is a 2'-3' sidewalk among the rear areas of these properties that all use for trash access, which will remain at its current width and will not be impinged upon by the Applicant's request.

From a broader perspective, it appears that a significant number of lots within the eastern half of Square 1037 are built to 90-100% lot occupancy with at minimum, wooden one-story decks. As such, it would not seem that a 6'-wide, two-story deck would cause a detriment to the character of the rear of the nearby properties on Square 1037, as there are many decks in rear yards. Four of 73 properties within the Square were granted BZA approval for relief from the zoning regulations and only one of these properties is located on the eastern half of the Square.

3. *Can the relief be granted without substantially impairing the intent, purpose and integrity of the Zoning Regulations and Map?*

The granting of the requested relief would not likely substantially impair the intent, purpose and integrity of the Zoning Regulations and Map even though the requested lot occupancy and relief to rear yard are far greater than what is anticipated by the zoning. OP's position in BZA case #18556 that a detriment was present was in part due to the enclosed structure that was built without a permit, which is a detriment to the integrity of the Zoning Regulations. The proposed deck would allow for usable outdoor space where there currently is none, and the lot is significantly smaller than the average-sized lot on Square 1037, with no alley access, with the rear yards of seven very small lots adjoining in the acute angle formed by the triangular-shaped Square.

VI. COMMUNITY COMMENTS

Adjacent neighbors: At the time of the writing of this report, eight letters of support from neighbors have been entered into the record. Of the eight support letters, the four most-affected neighbors, residing at 1364 and 1366 Independence Ave. SE and 1373 and 1377 Massachusetts Ave. SE, have all entered letters of support of the Applicant's request. A petition of support signed by nine other households was also entered into the record. A party status request in opposition has been entered into the record.

Ward/ANC: The property is within ANC-6B. The Applicant has stated the ANC's Zoning Committee voted 11-0-1 in support of the request and the full ANC posted a report of support to the record, with a favorable vote of 9-0.

Attachment: Location Map



Location Map