

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Stephen Gyor AICP, Case Manager

J Joel Lawson, Associate Director Development Review

DATE: December 1, 2015

SUBJECT: BZA Case 19127 - variance and special exception relief to allow a subdivision and construction of 11 flats at 2800 Sherman Avenue NW

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends **denial** of the following variances and special exception:

- § 401.3 Lot Area (1,500 square feet min. required; 885-2,765 square feet proposed);
- § 2604.3 Lot Width permitted by IZ (16 feet min. required; 15-16 feet proposed);
- § 403.2 Lot Occupancy (60% max. permitted; 29-81% proposed); and
- § 404.1 Rear Yard (20 feet min. required; 11-56 feet proposed).

The Office of Planning is generally supportive of the Applicant’s intent to increase the District’s housing supply in a rowhouse form, on this infill lot, with rowhouses fronting on both streets. However, the application did not adequately explain what unique characteristic of the property creates a practical difficulty for the development of this site in a more conforming manner. There does not appear to be a practical difficulty related to the shape of the lot that would prevent it from being developed into lots closer to conformance with the intent of the Zoning Regulations. However, if the Applicant were to make a case acceptable to the BZA for the variance relief above, then OP **would not oppose** the following variance and special exception:

- § 2115.2 Compact Parking Spaces (15 compact parking spaces proposed); and
- § 2116.5 Accessory Parking Spaces (15 parking spaces proposed).

II. LOCATION AND SITE DESCRIPTION

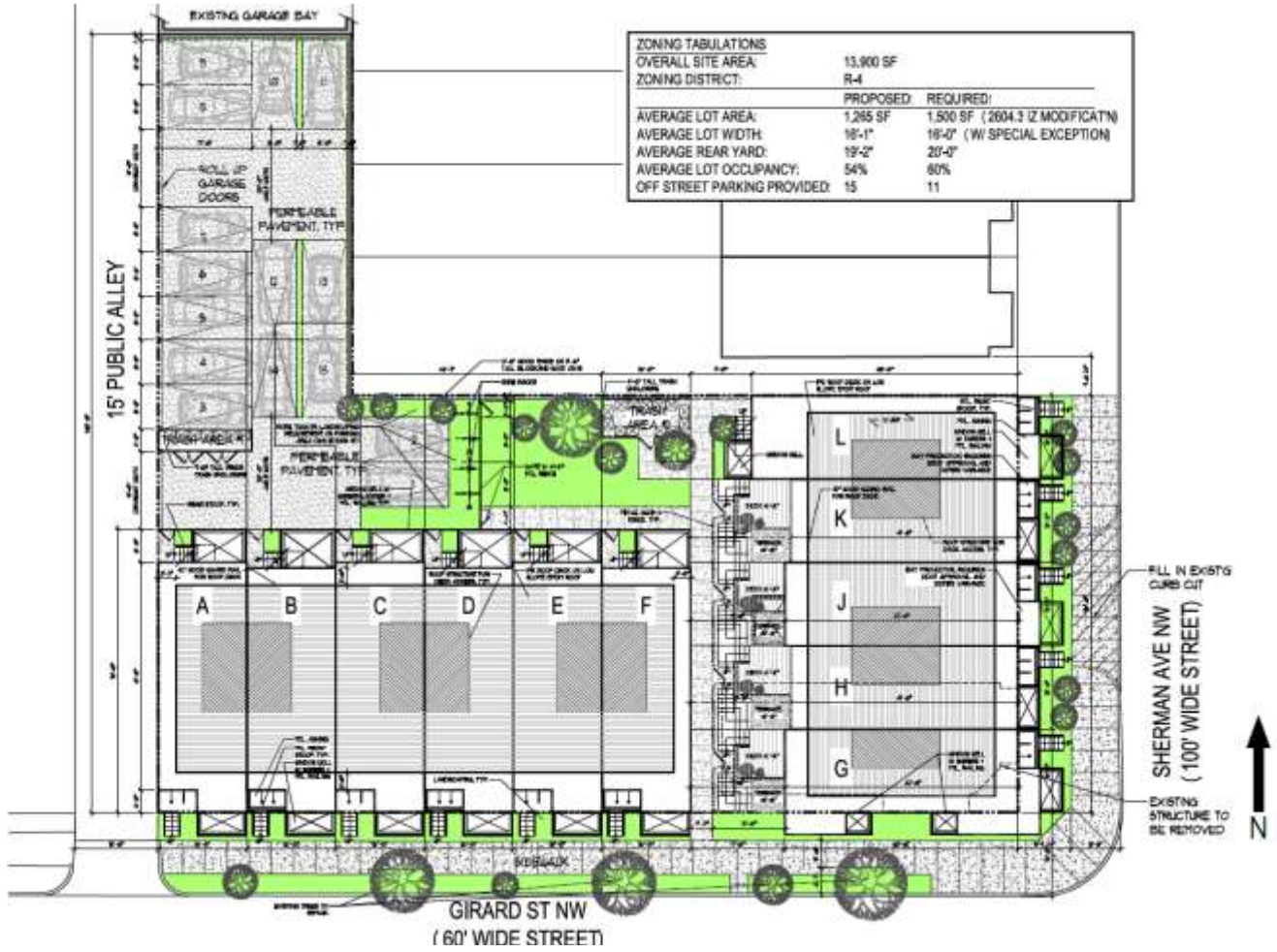
Address	2800 Sherman Avenue NW (the “Subject Property”)
Applicant	2800 Sherman, LLC (the “Applicant”)
Legal Description	Square 2857, Lot 818
Ward	1

Lot Characteristics	The Subject Property has 13,900 square feet of land area and is roughly comprised of two rectangles. The main portion of the Subject Property, at the corner of Sherman Avenue and Girard Street, includes former lots 800 and 808, and measures approximately 75 feet along Sherman Avenue and approximately 120 feet along Girard Street. Abutting these lots to the west is former lot 816, which has a long, narrow, rectangular shape, with 35 feet of frontage on Girard Street and 140 feet of frontage extending north along the alley to the west.
Zoning	R-4 - Permits matter-of-right development of single-family residential uses (including detached, semi-detached, row dwellings, and flats), churches and public schools
Existing Development	Two story commercial building is located at the southeast corner of the Subject Property, with surface parking surrounding the building to the north and west, and a one-story building on the west side of the site, abutting the alley, which can accommodate nine vehicles.
Historic District	NA
Adjacent Properties	The site is bounded by private property to the north, Sherman Avenue to the east, Girard Street to the south, and a 15-foot wide public alley to the west.
Surrounding Neighborhood Character	The surrounding neighborhood is a mix of single-family row and semi-detached homes, small apartment buildings, and recent conversions to multi-family apartment dwellings.

III. APPLICATION IN BRIEF

The Applicant proposes to remove the existing commercial building and garages and subdivide the Subject Property into 11 individual record lots in order to construct 11 two-family row dwellings (flats): six new lots would front Girard Street, (“Lots A-F”), and five new lots would front on Sherman Avenue, (“Lots J-L”).

Fifteen parking spaces would be provided on the Subject Property, all of which would be accessed from the public alley. Thirteen parking spaces would be located in the north-south stem portion of the flag lot along the alley, and two spaces would be located behind Lots C and D. All ingress and egress would occur from the public alley, result in the closure of the existing curb cut, and would not require or provide any vehicle entrances or curb cuts onto the Subject Property from the surrounding streets.



IV. ZONING REQUIREMENTS and RELIEF REQUESTED

R-4 Zone	Regulation	Existing	Proposed	Relief
Height § 400	35 ft. max.	NA	36 ft.	None required
Lot Dimensions § 401	Per § 2604.3: Area: 1,500 sf. min. (IZ)	13,900 sf.	1,616 sf. (Lot A) 2,755 sf. (Lot B) 1,503 sf. (Lot C) 1,200 sf. (Lot D-F) 885 sf. (Lot G-L)	None required None required None required Relief required for 8 lots
Lot Dimensions § 401	Per § 2604.3: Width: 16 ft. min. (IZ)		16 ft. (Lot A-F) 15 ft. (Lot G-L)	None required Relief required for 6 lots
Floor Area Ratio § 402	NA	NA	NA	None required
Lot Occupancy § 403	60% max.	NA	45% (Lot A) 29% (Lot B) 53% (Lot C) 60% (Lot D, E, F) 71% (Lot G & J) 70% (Lot H & K) 81% (Lot L)	None required None required None required None required Relief required for 5 lots
Rear Yard § 404	20 ft. min.	NA	56 ft. (Lot A) 22 ft. (Lot B) 30 ft. (Lot C-F) 17 ft. (Lot G & J) 18 ft. (Lot H & K) 11 ft. (Lot L)	None required None required None required Relief required Relief required Relief required
Side Yard § 405	NA	NA	NA	None required
Court § 406	NA	NA	NA	None required
Compact Parking Spaces § 2115.2			15 parking spaces	Relief required
Accessory Parking Spaces § 2116.5				Relief required

V. OFFICE OF PLANNING ANALYSIS

a. Variance Relief from § 401.3 (Lot Dimensions); § 403.2 (Lot Occupancy); § 404.1 (Rear Yard); § 2604.3 (Lot Width permitted by IZ)

i. Exceptional Situation Resulting in a Practical Difficulty

The Applicant has requested relief that would allow for the subdivision of a 13,900 square foot lot into 11 flats. The Applicant proposes 15 foot wide lots along Sherman Avenue, where a minimum of 16 feet is permitted through the § 2604.3 Inclusionary Zoning (IZ) bonus density (a lot width of 18 feet is required without IZ in the R-4 zone). Further, the Applicant proposes the creation of several lots that would be less than the 1,500 square foot minimum as permitted by § 2604.3 (a lot area of 1,800 square feet is required without IZ in the R-4 zone).

The application indicates that the irregular “flag” shape of the lot creates an exceptional situation resulting in a practical difficulty. While the narrow portion of the lot adjacent to the alley may be considered exceptional, the majority of the lot is a large rectangular parcel. There does not appear to be a practical difficulty related to the shape of the lot that would prevent it from being subdivided into lots closer in conformance with the R-4 zone.

In addition, the Applicant states that in order to provide the minimum required lot area of 1,500 square feet, Lots D, E, and F would need to be 20 feet wide, and that 20-foot wide lots would not be in context with the surrounding development and would significantly encroach on the rear yard of Lots G-L. However, the Applicant could provide fewer and wider lots along Girard, which would create a consistent lot width along the block without encroaching on the rear yards of the lots facing Sherman (Lots G-L).

The Applicant states that to accommodate the required IZ square footage in the building on Lot L, the building’s footprint (and the IZ units themselves) need to be slightly larger than the footprints of the other buildings and units along Sherman Avenue and the site. However, OP disagrees with the Applicant’s use of IZ as a means to achieve greater density while at the same time citing IZ as the source of the practical difficulty on Lot L. The regulations themselves cannot be used as the practical difficulty.

ii. No Substantial Detriment to the Public Good

The proposed Project would develop an underutilized parcel, contribute to the expansion of the District’s housing supply, and result in a design largely adhering to neighborhood context, (including the height, width, design, rhythm, and overall size of the buildings), all of which would benefit the public good. However, aspects of the proposal could have some detrimental impact on the surrounding neighborhood.

In particular, the proposed site plan depends heavily on encroachments into public space along Sherman Avenue. While this is normally not the purview of the BZA, in

this case the extensive encroachments appear to be directly related to the lot dimension relief requested by the Applicant. Limits on projections into public space ensure that there is adequate room for the transportation system (i.e. sidewalk, street trees, street lights, etc.) and to protect the green and park-like character of the “public parking” (the part of right-of-way between the sidewalk and property set aside for landscaping and that is part of the city’s park and open space system). Conforming lots would likely not require this extent of encroachment, and could, in fact, provide additional opportunity for conforming projections.

The Applicant should provide dimensions for all projections that show both how far they extend into public space and how far they are from the curb. Based on what the Applicant has provided, it appears that revisions to the projections are needed to comply with how far projections can extend into public space. All projections on Sherman Avenue appear to exceed limits in the construction code and the building facades would need to be redesigned. Sherman Avenue is 100 feet wide and all projections are required to be a minimum of 15 feet from the curb (DCMR 12-3202.7.1.1).

The Applicant’s site plan, (refer to Page 7 of Exhibit B of the Applicant’s November 24, 2015 submission), shows there is a total of 18 feet between the curb and the property line. This means any projection on Sherman Avenue can extend a maximum of three feet into public space. All proposed step, porch, and areaway projections would be more than three feet and need to be reduced to meet this dimension. Bay windows are allowed on buildings with a minimum width of 16 feet (DCMR 12-32.10.3.1). Each lot facing Sherman Avenue would be only 15 feet and bay window projections are not allowed on any of the building facades facing Sherman Avenue. The bay windows on the Girard Street elevation of the southernmost unit facing Sherman Avenue would project four feet into public space and would need to be reduced to three feet (DCMR 12-3202.10.3.3). All other projections on Girard Street appear to comply with limits in the construction code.

iii. No Substantial Harm to the Zoning Regulations

The requested relief would pose harm to the Zoning Regulations by introducing a level of density not anticipated in the R-4 zone. Typically, the R-4 zone permits development of rowhouse lots with a minimum of 1,500 square foot area and a minimum width of 18 feet. The Applicant’s proposal would exceed the additional bonus density permitted by § 2604.3 on several lots.

The application states that many of the row dwellings in the surrounding neighborhood are nonconforming as to lot width and lot area, with dimensions far smaller than those of the proposed project. However, other substandard lots in the area were created prior to the current Zoning Regulations. The subdivision of the Subject Property into new lots provides an opportunity to provide lots which more closely conform to the Zoning Regulations.

Further, the Applicant notes that the average lot width for the proposed development would be 16 feet, which is permitted for IZ developments in the R-4 zone. However, the average lot area for the proposed development would be 1,265 square feet, whereas 1,500 square feet is permitted by Special Exception for IZ developments per Section 2604.3. The fact that many of the row dwellings in the surrounding neighborhood are nonconforming as to lot width and area is not justification for the creation of new nonconforming lots. Instead, the Subject Property provides an opportunity for the Applicant to subdivide the Property into lots which are more consistent with the intent of the R-4 zone.

b. Variance Relief from § 2115.2 (Compact Parking Spaces)

i. Exceptional Situation Resulting in a Practical Difficulty

The lot's flag shape and width along the alley would be too narrow to accommodate up to 15 full size parking spaces. Therefore, the lot's condition creates a practical difficulty for the Applicant in providing the required number of spaces.

ii. No Substantial Detriment to the Public Good

Substantial detriment to the public good is not anticipated, as the required number of on-site spaces would be provided, so as not to adversely impact the on-street parking supply in the immediate neighborhood. The neighborhood is well served by public transit along Sherman Avenue. OP supports the Applicant's intent to provide adequate off-street parking using compact spaces and an on-site location for trash storage, as well as to eliminate the need for curb cuts and parking spaces along both Girard and Sherman.

The Applicant should provide additional details regarding the appearance of the proposed fence along the public alley.

iii. No Substantial Harm to the Zoning Regulations

There should be no substantial harm to the regulations. The required number of parking spaces would be provided according to the regulations. The compact spaces that would be provided would measure 8 ft. x 17 ft., which is a minimal difference from the standard size parking spaces of 9 ft. x 19 ft.

a. Special Exception Relief pursuant to § 2116.5 (Accessory Parking Spaces)

i. Is the proposal in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps?

All parking for the Project would be located on the western portion of the Subject Property adjacent to the alley, a proposal which would not contradict the intent of the Zoning Regulations and Map. The proposal would make efficient use of this portion of the parcel.

ii. Would the proposal appear to tend to affect adversely, the use of neighboring property?

The Office of Planning does not anticipate that the addition would have a substantially adverse effect on the light and air, or the use or enjoyment, of any abutting or adjacent dwelling or property. Cross-easements would allow access and use of the parking by residents of the project.

2116.5 *Except as provided in § 2117.9, if approved by the Board of Zoning Adjustment pursuant to § 3104 for special exceptions, open parking spaces accessory to any building or structure may be located anywhere on the lot upon which the building or structure is located, or elsewhere, except in the case of a one-family dwelling, in accordance with §§ 2116.6 through 2116.9.*

2116.6 *The Board shall determine that it is not practical to locate the spaces in accordance with § 2116.2 for the following reasons:*

- (a) *Unusual topography, grades, shape, size, or dimensions of the lot;*
- (b) *The lack of an alley or the lack of appropriate ingress or egress through existing or proposed alleys or streets;*
- (c) *Traffic hazards caused by unusual street grades; or*
- (d) *The location of required parking spaces elsewhere on the same lot or on another lot would result in more efficient use of land, better design or landscaping, safer ingress or egress, and less adverse impact on neighboring properties.*

2116.7 *When the accessory parking spaces are to be located elsewhere than on the lot upon which the building or structure they are intended to serve is located, the parking on adjacent lots or lots separated only by an alley from the lot upon which the building or structure is located, shall be preferred.*

2116.8 *The accessory parking spaces shall be located so as to furnish reasonable and convenient parking facilities for the occupants or guests of the building or structures that they are designed to serve.*

2116.9 *The Board may impose conditions on any accessory or non-accessory parking spaces as to screening, coping, setbacks, fences, the location of entrances and exits, or any other requirement it deems necessary to protect adjacent or nearby property. It may also impose other conditions it deems necessary to assure the continued provision and maintenance of the spaces.*

The parking spaces would provide convenient parking facilities for the adjacent flats, consistent with the provisions of Section 2116. All ingress and egress would occur from the public alley, result in the closure of the existing curb cut, and would not require or provide any vehicle entrances or curb cuts onto the Subject Property from the surrounding streets.

VI. COMMUNITY COMMENTS

At its meeting held on November 5, 2015, ANC 1B voted 8-0 to support the proposed development.

As of this writing, no comments from the adjacent neighbors have been submitted into the record, although a letter from ANC 1B indicates that two neighbors will testify regarding alley closing legislation adopted by Council in 2007.