

Board of Zoning Adjustment Memo (BZA Case 19164) indicated needed relief:

1. Variance for the expansion of an existing non-conforming structure pursuant to §2001.3 for the expansion of a non-conformance structure (non-compliant in lot occupancy-§ 403 and open courts - § 406) in the R-4 Zoning District. (§ 3103.2)
2. Variance to exceed the maximum permitted number of stories for a structure in the R-4 Zoning District (3) pursuant to § 400.1 to allow for a fourth story addition to an existing three-story structure. (§ 3103.2)
3. Variance from Section §403.2 to permit construction of a rear spiral staircase in excess of the allowable lot occupancy percentage. (§ 3103.2)
4. Variance to allow for the expansion of an existing non-conforming open court pursuant to § 406.1 to allow for a fourth story addition to an existing three-story structure. (§ 3103.2)
5. Special Exception pursuant to § 400.23 to allow for a structure to be erected to a height not exceeding forty feet (40 ft.) in the R-4 Zoning District. (§ 3104.1)
6. Special Exception pursuant to § 400.24(a) to allow for the alteration of an existing rooftop architectural element original to the building in the R-4 Zoning District. (§ 3104.1)

Response to the BZA Memo (please see with contesting height section):

1. This variance will be requested (#1 in BZA Memo). The home sustains the same nonconformities, with regard to lot occupancy and open court, and decreases slightly the lot occupancy nonconformity.
2. Relief will not be needed for exceeding the maximum permitted number of stories (#2 in BZA Memo). The ground plane at the front will be returned to its original height, prior to recent DC Water repair work, at 5" higher than the plans DCRA reviewed in preparation of the BZA Memo. The proposed addition would be on the third, and highest, story of the structure and is within the number of permitted stories in R-4.
3. While relief is needed for non-conformance overall to lot occupancy, relief should not be needed for construction of the rear spiral staircase (#3 in the BZA Memo). The proposed rear spiral staircase is intended to replace an existing traditional stairwell. This change actually decreases lot occupancy percentage, but only slightly. The lot occupancy of the proposed spiral staircase is 6 sq feet, while the lot occupancy of the existing staircase is around 20 sq feet. However, the standing variance request would address this issue regardless.
4. This variance will be requested (#4 in the BZA Memo). The home sustains the same nonconformities, with regard to lot occupancy and open court, and decreases slightly the lot occupancy nonconformity. However, there is not an additional story being added, as the existing top level is being expanded and should be considered an existing third story.
5. This variance will be requested (#5 in the BZA Memo). The existing height of the home is measured from ground plane to the parallel roof line, which is 33'8" with the latest adjustment to the ground plane. The existing gable, considered an architectural element, is at 36'. The proposed height of the addition is 36', with the gable to remain, as is.
6. This variance will be requested (#6 in the BZA Memo). However, the existing gable is to remain, as is. The only change is the parallel roof line, which will be raised but finished in the same manner with slate shingles as the existing front face.

Depending on further comments from the Office of Zoning, I believe my relief needs to be:

Application of Christopher J Wright, pursuant to 11 DCMR §§ 3103.2 and 3104.1, for variances from the lot occupancy requirements under § 403.2, the open court requirements under § 406.1, and the nonconforming structure requirements under § 2001.3, and special exceptions from the height requirements under § 400.23 and alteration of rooftop architectural element under § 400.24 to construct a three-story flat in the R-4 District at premises 17 U Street N.W. (Square 3117, Lot 3).

Contesting the height calculation, for stories, in the BZA Memo:

- Note: Front ground plane is now 5" higher, which leaves the space in the lower floor at 3'8" above the ground plane. Since this is under the 4' requirement for considering a basement a story, the lower floor is no longer considered a story, for zoning or building code.
- The existing main level (second floor) and level above (third floor) are clearly 2 stories.
- The existing top level (fourth floor), which only has conditioned/finished space towards the front of the home, should be considered a story. The existing home would be considered 3 stories.
 - Meets zoning definition (11 DCMR 199) for story and would be gross floor area:
 - Story - the space between the surface of two (2) successive floors in a building or between the top floor and the ceiling or underside of the roof framing. The number of stories shall be counted at the point from which the height of the building is measured. For the purpose of determining the maximum number of permitted stories, the term "story" shall not include cellars or penthouses.
 - "The term "gross floor area" shall include basements, elevator shafts, and stairwells at each story; floor space used for mechanical equipment (with structural headroom of six feet, six inches (6 ft., 6 in.), or more); penthouses; attic space (whether or not a floor has actually been laid, providing structural headroom of six feet, six inches (6 ft., 6 in.), or more); interior balconies; and mezzanines."
- Is NOT considered an attic, and therefore a story, by DC Building/Residential Code Definitions:
 - International Residential Code Definition:
 - ATTIC, HABITABLE. A finished or unfinished area, not considered a story, complying with all of the following requirements:
 - 1. The occupiable floor area is at least 70 square feet (17 m2), in accordance with Section R304,
 - 2. The occupiable floor area has a ceiling height in accordance with Section R305, and
 - 3. The occupiable space is enclosed by the roof assembly above, knee walls (if applicable) on the sides and the floor-ceiling assembly below.
 - The area, with sloped ceiling starting at 7'7" and at least 90 square feet with over 5' ceilings, has a finished ceiling. Given that it is not enclosed by a roof assembly above, it is not an attic and is a story.

Burden of Proof (Variance, Special Exception)

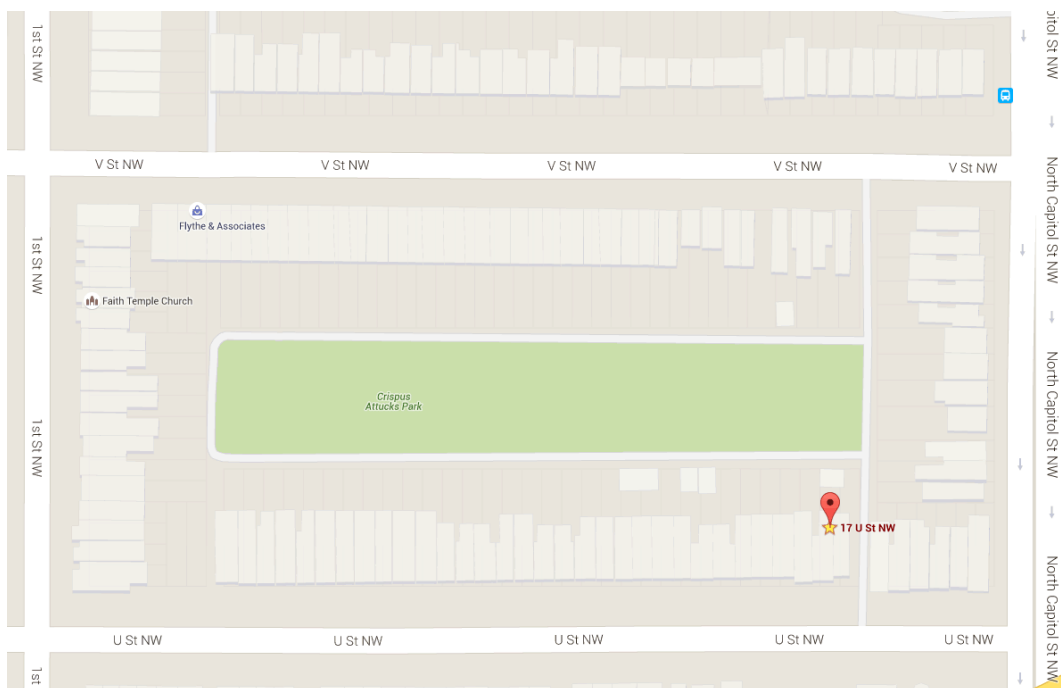
Area Variance Burden

The request meets the standard for granting a variance to provide relief from strict application of zoning regulations that would result in peculiar and exceptional practical difficulties, pursuant to 11 DCMR § 3103.2, due to the existing and unchangeable attributes of the PROPERTY.

1. The property is unique because of its size, shape, topography, or other extraordinary or exceptional situation or condition inherent in the property
- The existing external nonconformities, along with structurally-necessary replacements and internally-significant items not up to building code, create a specifically exceptional situation.
- The construction of this row dwelling predates the enactment of the 1958 Zoning Regulations; therefore, the current zoning restrictions prohibit all forms of expansion, creating a practical difficulty and economic hardship.
 - The existing property (lot and structure) is nonconforming in a number of ways due to its 1906 construction, most notably lot occupancy and open court requirements.
 - Additionally burdensome, the lot occupancy restrictions are now considered alongside minimum lot areas of 1800 square feet. My lot area is 1700 square feet, making lot occupancy higher as a ratio.
- The home is in need of repairs, to modernize it and deal with structural and leaking issues associated with a dilapidated roof. There is no scenario, other than demolishing the back half of the main home, which removes the nonconforming aspects for lot occupancy and open court.
 - The roof must be replaced. In addition, rotted out rafters and water-damaged brickwork must also be replaced. In any scenario, other than demolishing the back half of the main home, the replacement roof will be nonconforming.
 - Without creating more vertical and horizontal space in the third floor – the proposal during my roof replacement – I’m incapable of bringing items like my stairwell (2nd to 3rd floor) up to code (image below).
 - The stairs are not in line with building code for riser height, stair width, and tread depth.
 - The existing space in the third floor, along with the layout of the second floor, doesn’t allow a long enough area to replace up-to-code stairs. Major structural changes would have to be made to use the existing third floor.

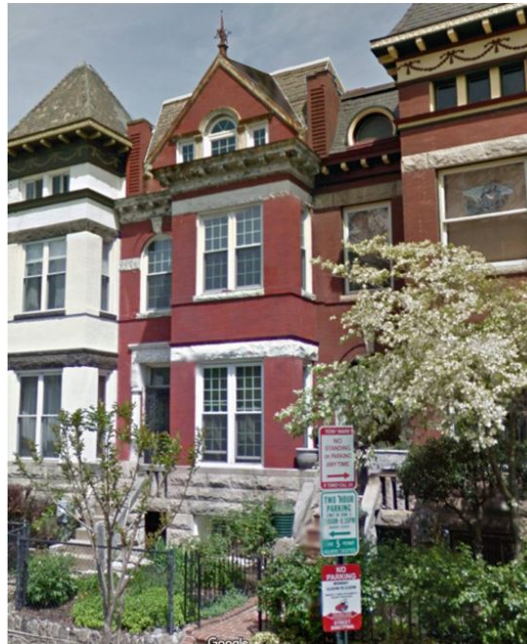
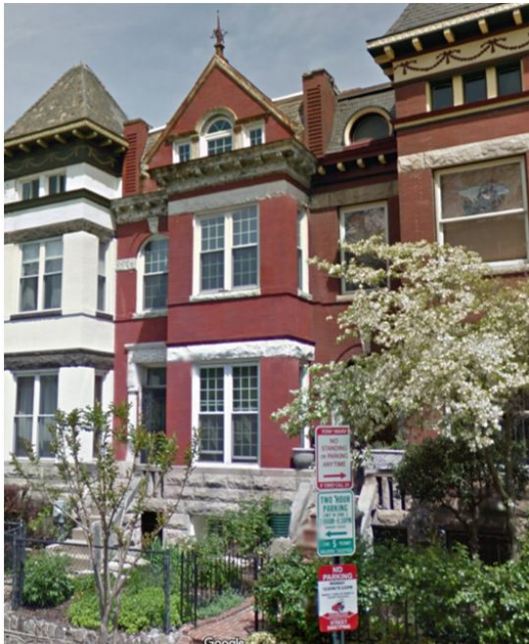


- The open court built on the existing property, a dogleg, is seen in less than 15% of homes on Crispus Attucks park (see below). In even fewer of those homes is the dogleg nonconforming. As with the issue of lot occupancy, there is no scenario, other than demolishing the back half of the main home, which removes the nonconforming court.



2. The applicant will encounter practical difficulty if the Zoning Regulations are strictly applied;
 - Strict compliance with the regulations is practically difficult because the adoption of the Zoning Regulations immediately resulted in the nonconformities that are subsumed in the requested variance relief as well as nonconformities with respect to lot size and lot width.
 - Both the subject property and the existing structures were developed in 1906 prior to the adoption of the Zoning Regulations and became nonconforming with respect to lot occupancy, open court, and rear yard upon the adoption of the regulations.
 - The lot area and lot width are nonconforming and unchangeable, creating an exceptional condition
 - With any other proposed expansion to the structure, additional lot occupancy would be generated, even one as modest an increase in square footage as proposed
 - While the variance relief is sought, recognizing existing nonconformance with lot occupancy, the lot occupancy percentage includes an open court that is nonconforming as to width and thus counted toward that coverage (11 DCMR § 406).
 - The home is in need of repairs, to modernize it and deal with structural and leaking issues associated with a dilapidated roof. There is no scenario, other than demolishing the back half of the main home, which removes the nonconforming aspects for lot occupancy and open court.
3. The requested variances will not result in substantial detriment to the public good or the zone plan.
 - The requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. Further, the proposal is also consistent with general intent and purpose of related § 223.2, § 400.23, and Z.C. Case No. 14-11, protecting the character and architectural features of the original row house in height, scale, and materials used.
 - The proposal is, even with more restrictive updates in ZC 14-11, in line with the intent, purpose, and integrity of the Zoning Regulations. ZC 14-11 focused its efforts to control pop-ups, which are explicitly described as “generally is an addition to a row dwelling that results in the structure uncharacteristically rising above the roofs of adjacent dwellings” and “frequently constructed to convert a one- (1) family-dwelling or flat into an apartment house.”
 - My proposal does NOT create an apartment house
 - My proposal does NOT raise my roof above adjacent dwellings, nor my existing gable
 - My proposal emphasizes protecting the character of my row house and neighborhood
 - No substantial changes are proposed to the architectural character of the home

- o Similar materials (e.g., slate) as the original materials used to maintain the character
 - o No movement of the architectural element (i.e., gable) proposed...400.24(a)
 - o Original architectural element will remain and be updated to account for rust...400.24(a)
 - o No changes are proposed to any street-side window, in placement or size
 - o No construction at a height greater than the architectural element (i.e., gable) proposed
 - o All proposed additions and alterations are made within the same original footprint
 - o Proposed addition still maintained below the height of adjacent neighboring turrets
- The project is a modest addition that will not create any new nonconformity.
 - o The proposed structure is architecturally compatible in scale and massing to existing neighboring properties. The surrounding buildings are predominantly row dwellings,
 - The property will not be turned into an apartment house



Images: Existing Front of Home and Overlay of Proposed Alteration

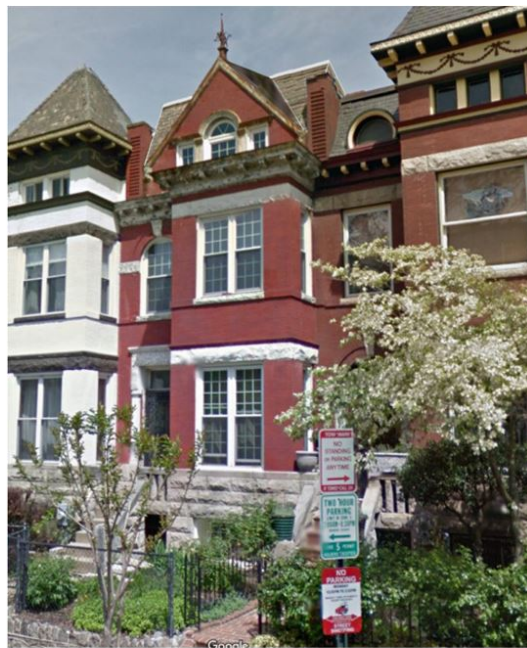
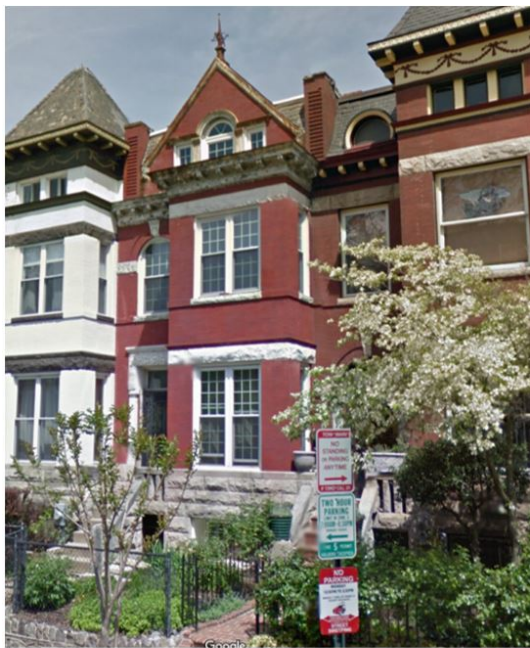
- The extension will not have an undue impact on the light and air of neighboring properties because of the vertical nature of the addition, the absence of any increase in lot occupancy, the substantial setback from the rear of the property for the extension, and the open air nature of the balcony. To further elucidate the lack of any issues, letters acknowledging and supporting the propose alterations have been signed by the two adjacent homeowners (15 and 19 U Street NW).
- In accordance with 400.23, the overall height of the third floor addition will not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property. In accordance with 400.25, my rooftop architectural element (i.e., gable) original to

the building shall not be removed or altered in any way (e.g., changing its shape or increasing its height, elevation, or size). The proposed changes are consistent with general intent and purpose of § 400 and Z.C. Case No. 14-11, protecting the character and architectural features of the original row house in height, scale, and materials used.

Special Exception Burden

In accordance with 400.23, the overall height of the third floor addition will not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property. In accordance with 400.25, my rooftop architectural element (i.e., gable) original to the building shall not be removed or altered in any way (e.g., changing its shape or increasing its height, elevation, or size). The proposed changes are consistent with general intent and purpose of § 400 and Z.C. Case No. 14-11, protecting the character and architectural features of the original row house in height, scale, and materials used.

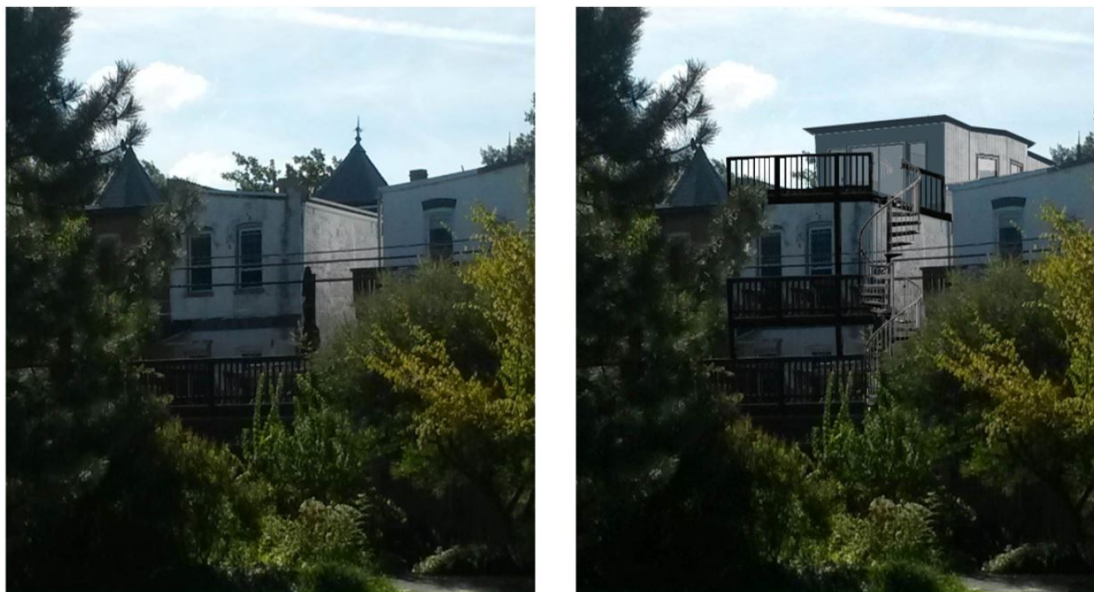
Notably, in addition to explicit BCA and ANC support, my two directly adjacent neighbors are witting and fully supportive of the proposed changes.



Images: Existing Front of Home and Overlay of Proposed Alteration

- No substantial changes are proposed to the architectural character of the home
 - Similar materials (e.g., slate) as the original materials used to maintain the character
 - No movement of the architectural element (i.e., gable) proposed...400.24(a)
 - Original architectural element will remain and be updated to account for rust...400.24(a)
 - No changes are proposed to any street-side window, in placement or size
 - No construction at a height greater than the architectural element (i.e., gable) proposed
 - All proposed additions and alterations are made within the same original footprint
 - Proposed addition still maintained below the height of adjacent neighboring turrets

- The expansion, as well as the rest of the rear will be uniform in finish with a textured stucco
- Deck material will also be the same as the existing material – wood – with a metal staircase



Images: Existing Rear of Home and Overlay of Proposed Alteration

1. The light and air available to neighboring properties is not unduly affected
 - No undue impact on the light and air available to neighboring properties
 - Expanded 3rd story includes interior addition and rear balcony, both within footprint
 - Setback, from the rear, of the interior addition allows light and air to flow easily in rear
 - Neither of the directly adjacent homeowners, both supportive, have roof access
 - Explicit support by two adjacent homeowners (15 and 19 U St NW)
2. The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;
 - No undue compromise of privacy for neighboring properties
 - Roof decks on neighboring garages are already 100% visible from the existing home
 - Height of addition and balcony is still well below height of other Crispus Attucks homes, not increasing any restrictions on neighbor's privacy
 - Neither of the directly adjacent homeowners, both supportive, have roof access

- Explicit support by two adjacent homeowners (15 and 19 U St NW)
3. The addition will not impede the functioning of any chimney
- All functional rooftop elements from the two adjacent neighbors have been surveyed and won't be affected by the proposed addition.
 - Any unforeseen changes required would be financially covered by me
4. There are no solar energy systems on adjacent properties, as can be seen by images of my neighbor's roofs



View of Front Roof (white) of 15 U Street NW



View of Front Roof (red) of 19 U Street NW

5. The resulting building or structure height, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale and pattern of houses along the subject street frontage;
 - No substantial changes are proposed to the architectural character of the home
 - Similar materials (e.g., slate) as the original materials used to maintain the character
 - No movement of the architectural element (i.e., gable) proposed...400.24(a)
 - Original architectural element will remain and be updated to account for rust...400.24(a)
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The Applicant has provided graphical representations, including site plans, plans, elevations, and photographs to demonstrate the relationship of the proposed addition to adjacent buildings and views from public ways.