

Cochran, Patricia (DCOZ)

From: Gail J <gailjubca@gmail.com>
Sent: Thursday, July 5, 2018 1:37 PM
To: DCOZ - BZA Submissions (DCOZ)
Subject: opposition to 19521A

Opposition letter for # 19521A

RE:Application for a separate garage/ADU in Burleith at 3520 S St. NW

I believe this application for a variance to build a garage/ADU should be denied for the following reasons:

DC Regulations 11-D Chapter 50 Accessory Building Regulations for R Zones

5002.1 The maximum height of an accessory building in an R zone shall bemeasured from the finished grade at the middle of the side of the accessory building that faces the main building to the highest point of the roof of the building.

Finished Grade is defined (in Subtitle B 100.1) as “the elevation of the ground directly abutting the perimeter of a building or structure. “

The height in the revised plans for this garage/ADU as measured per Zoning Regulations is higher than the 15’ maximum height permitted in the R 20 zone.. It must be measured from the “finished grade”, not the “natural grade”. The submitted drawings show it is 16’6” from the finished grade to the roof.

(D-5201.1 allows for special exceptions to the regulations but increasing the height of the building is not one of the options. See below)

Applicant is now asking for a variance to build this structure.

Subtitle X Chapter 10 "1000.1 A variance is addressed in Subtitle X Chapter 10. "[w]here, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the original adoption of the regulations, or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under D.C. Official Code §§ 6-641.01 to 6-651.02 would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, ..."

Most importantly, the argument for a variance is specified with regard to the “shape” of the property or “exceptional topographical conditions” or “extraordinary or exception situation or condition of a specific piece of of property”. It states only the property itself can be reason for a variance or cause the hardship. The property or the shape of the property is not the issue here. It did not cause the costs the owner has incurred. The initial permit was issued January 3, 2018 and rescinded 2 days later. The owner should have known this permit was the first of its kind within the new Regulations and that there were issues with obtaining this permit. The BZA hearing was 6 months prior to the permit issuance. Unfortunately, the applicant did not wait to receive the permit before incurring many of his expenses. This is not a valid argument for the variance.

The area variance 1001.3 refers to the requirements that affect the size location and placement of buildings, such as height. Again the only basis for this argument is the shape of the property that could affect

the height. The only thing that affects the height is the regulation that clearly state that 15' is the maximum in the R-20 Zone.

Subtitle-X-10 1002.1 refers to the attributes of a specific piece of property that would result in “peculiar and exceptional practical difficulties to the owner”. Again the property itself is not the problem. It is the desire to build higher than the Regulations permit.

The burden of proof required from the applicant as to why this **property** deserves a variance has not been met.

As a practical matter, the plans show the entire ground area under the garage is excavated thus lowered by 1'6" below the alley. This means that heavy rain will probably create a garage flooding issue and mold and mildew. No drainage is shown on the plans. Also driving a vehicle about 1.5 feet down into the garage in the 5' width of the garage apron between the alley and the garage door would probably result in most cars bottoming out on the concrete.

Subtitle U-253.8 (f) (1) The accessory building shall be located such that it is not likely to become objectionable to neighboring properties because of noise, traffic, parking, or other objectionable conditions;
253.10 (C) Any modification(s) approved shall not conflict with the intent of this section to maintain a single household residential appearance and character in the R zones.

This type of development will change forever the look and feel of Burleith as a low density single family residential neighborhood. To add the density, the cars, the trashcans that will result from these types of additional dwellings will be unacceptable. Back yard privacy will be compromised for neighbors across the alley from this buildings.

The alleys in Burleith are integral to the community. This would be a significant visual change to the look of the alley. It will not enhance the single family residential feel or look of the Community. The proposed building does not “look” like a garage. It looks like a boxy house. It is unlike the rest of the buildings in the alleys of Burleith. A below grade building is not the look of single car garages we see in our alleys.

The full lot width coverage of this building could present a real safety hazard in the event of a fire in the primary residence with no rear access.

I went to the zoning regulation meetings prior to the 2016 regulations being enacted. During those meetings I asked about these ADU's in Burleith. We were told that a 15' building would not qualify for an ADU because it needed side yard access. It would require 7' ceilings, plus insulation and a roof and could not meet that requirement. We were assured that the intent of the Regulations was to permit garages but not this 2nd story ADU in the R20 zone.

Finally, we know DCRA cannot adequately identify between current rental and owner-occupied properties. How will they ever identify and enforce a separate tenant in an ADU of a non-owner occupied property? Does the current case where the owner says he will have his nanny live in it mean it is a rental requiring a registration and business license and inspection?

Our ANC 2e has passed a resolution to deny this application. They understand the needs of our R 20 community and do not think this meets the Regulations. This proposed building is more than the maximum 15' high per Regulation measurement. I believe this application for a variance should be denied. The entire project should be denied.

Respectfully,

Gail Juppenlatz
3542 Whitehaven Pkwy NW
Burleith

CHAPTER 10 VARIANCES 1000 GENERAL PROVISIONS

1000.1 With respect to variances, the Board of Zoning Adjustment has the power under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(3) (formerly codified at D.C. Official Code § 5-424(g)(3) (2012 Repl.)), "[w]here, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the original adoption of the regulations, or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under D.C. Official Code §§ 6-641.01 to 6-651.02 would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, to authorize, upon an appeal relating to the property, a variance from the strict application so as to relieve the difficulties or hardship; provided, that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map."

1002 VARIANCE REVIEW STANDARDS

• 1002.1 The standard for granting a variance, as stated in Subtitle X § 1000.1 differs with respect to use and area variances as follows:

(a) An applicant for an area variance must prove that, as a **result of the attributes of a specific piece of property described** in Subtitle X § 1000.1, the strict application of a zoning regulation would result in peculiar and exceptional practical difficulties to the owner of property; and

CHAPTER 50 ACCESSORY BUILDING REGULATIONS FOR R ZONES

5002 HEIGHT

5002.1 The maximum height of an accessory building in an R zone shall be two (2) stories and twenty feet (20 ft.), including the penthouse. The height of an accessory building permitted by this section shall be **measured from the finished grade at the middle of the side of the accessory building that faces the main building** to the highest point of the roof of the building.

5201 ADDITION TO A BUILDING OR ACCESSORY STRUCTURE

5201.1 The Board of Zoning Adjustment may approve as a special exception in the R zones relief from the following development standards of this subtitle, subject to the provisions of this section and the general special exception criteria at Subtitle X, Chapter 9:

- (a) Lot occupancy; (b) Yards;
- (c) Courts;
- (d) Minimum lot dimensions;
- (e) Pervious surface; and

(f) The limitations on enlargements or additions to nonconforming structures as set forth in Subtitle C § 202.2.

D 1209 ACCESSORY BUILDINGS

- 1209.4 In the R-20 zone, an accessory building within five feet (5 ft.) of a public or private vehicular alley may have a maximum height of fifteen feet (15 ft.), a maximum building area of four hundred and fifty square feet (450 sq. ft.) and a maximum number of one (1) story.