GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

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Office of the Director

MEMORANDUM

DATE: June 15, 2004

TO: District of Columbia Board of Zoning Adjustment

FROM: Andrew Altman, Director

SUBJECT: Board of Zoning Adjustment Case No. 17176
1320 9th Street, NW

Summary

The applicant seeks variances from the lot occupancy provisions of §772.1 to allow 85% lot coverage, from the rear yard provisions of §774.1 for the existing rear yard of zero feet, and from §2001.3 limiting alterations to nonconforming structures. The applicant seeks to construct a third story on the existing two story structure to provide an additional residential unit. The existing rear building setback will remain at zero feet. OP is of the opinion that an additional variance to the court width is also required on this project. The Office of Planning **recommends approval** of these variances based on the findings below.

Site and Area Description

The subject property is located at 1320 9th Street NW (Square 367, Lot 823). The existing stucture is a two-story mixed-use building. The original residential structure in the rear likely dates to the Civil War period. Subsequent additions in the 1870s and 1930s resulted in the existing building with its projecting storefront and partial third floor. The building has been deemed to be a contributing building within the Shaw Historic District. The site abuts a similar two-story commercial building to the south and a vacant lot to the north.

Properties on both sides of 9th Street on this block are zoned C-2-A. There are a church and a gas station across 9th Street and various commercial uses on both sides of the street. To the west are various types of residential uses in a neighborhood zoned R-4. One block

BZA
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Exhibit No. 29

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EXHIBIT NO. 29

to the north of the site is a Giant supermarket and one block to the south is the DC Convention Center.

Project Description

The existing two-story building includes 992 square feet of ground floor retail and four apartment units. The applicant proposes the addition of a third story to the existing structure to create an additional apartment unit. The third story would be setback approximately 16 feet from the front of the building leaving a second floor terrace and hiding the addition from the street front. In addition, stairway access to the roof will be provided for access to a rooftop terrace to meet the residential recreation space requirements.

The front of the ground floor will remain as a retail use. The existing two-car garage in the rear of the property off of the alley will also remain. No additional parking is proposed with the application. With the exception of access stairs, no addition is being made to the footprint of the building.

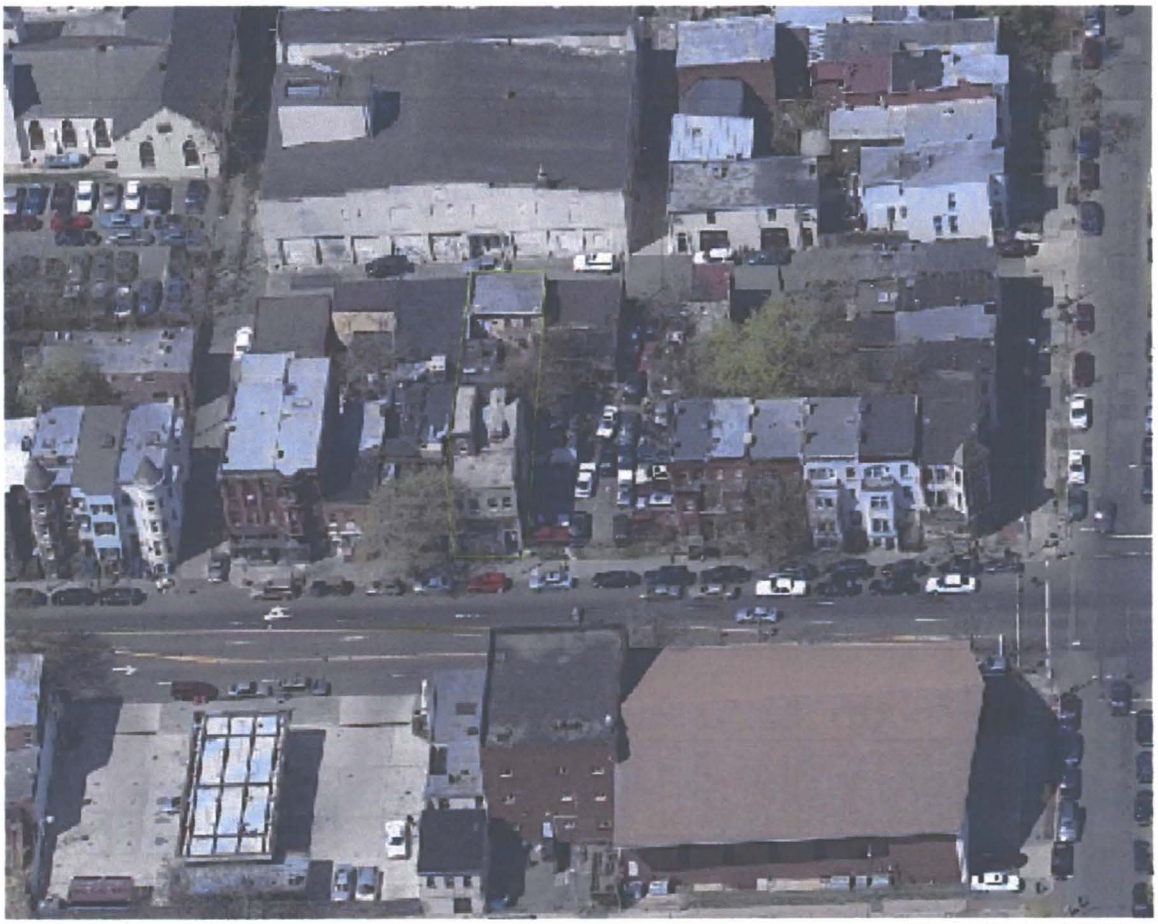


Figure 1: Aerial View

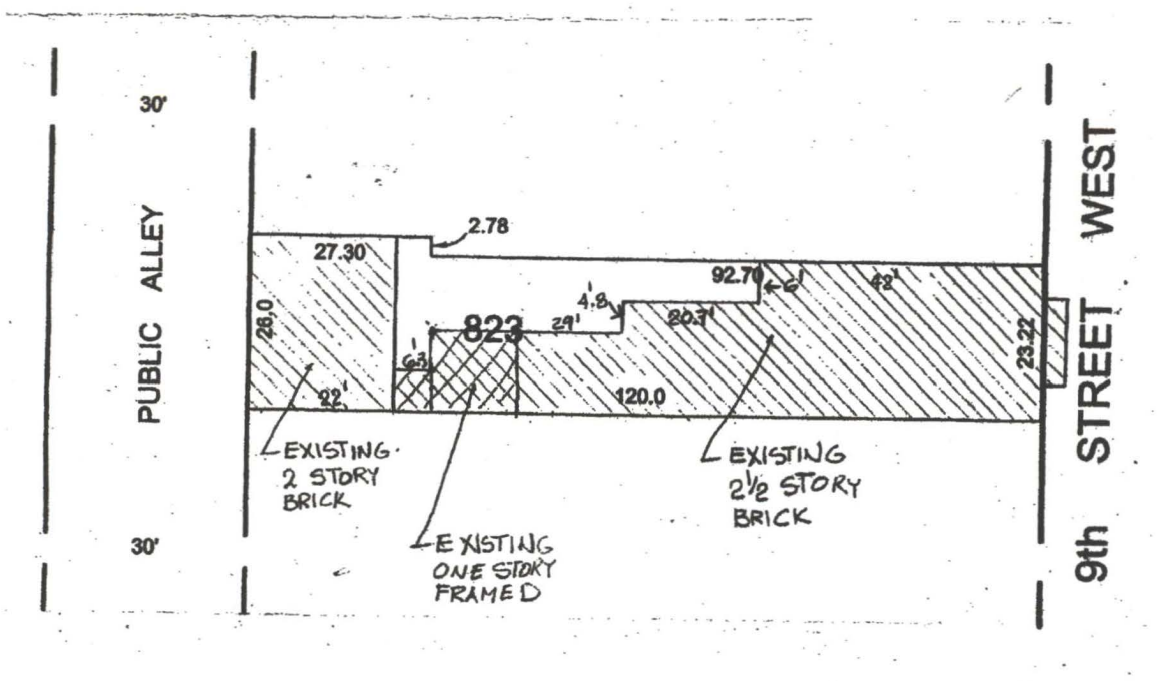


Figure 2:Site Plan

Zoning Requirements

The applicant is requesting variances from the lot occupancy and rear yard requirements, as well as from §2001.3 to allow an addition to a nonconforming structure. The proposed structure meets the height, floor area ratio, and residential recreation space requirements of the zoning regulations. It appears that the application will also require a variance from the court width requirements of §776.3 that was not included with the original submission.

Section	Item	Required/Allowed	Existing	Requested	Deviation
770.1	Height	50 ft	36 ft	36 ft	N/A
771.2	Floor Area Ratio	2.5	1.7	2.42	N/A
772.1	Lot Occupancy	1717 sq ft(60%)	2380 sq ft(83.5%)	2430 sq ft(85%)	713 sq ft(25%)
773.3	Res Rec Space	1276 sq ft(20%)	N/A	1375 sq ft	N/A
774.1	Rear Yard	15 ft	0 ft	0 ft	15 ft
776.3	Court width	15 ft	10.8 ft	10.8 ft	4.2 ft

Analysis

The provisions of §3103.2 require the applicant to show a unique physical aspect or other extraordinary or exceptional situation or condition of a specific piece of property that creates an undue hardship or practical difficulty. In addition, there should be no harm to the public or to the zone plan.

Extraordinary or Exceptional Situation

In accordance with §3103.2, the Board has the authority to grant a variance if, by reason of exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of the property.

The exceptional situation for this property is a combination of the existing conditions on the property and the property's historical nature. All three of the required variances, lot occupancy, rear yard, and court width, are existing situations that will not be exacerbated by the proposed addition. The rear yard and court will not change at all while the lot occupancy will increase by only 1.5% due to the need for further stairway access. While in other instances razing the existing structure and constructing a new building could remedy this situation, the existing building is protected by the city's historic preservation regulations and may not be demolished. These factors create an exceptional situation for the property owner and lead to the practical difficulty below.

Practical Difficulty

The nonconforming status of the existing structure creates a practical difficulty on the property. The rear yard is currently zero feet and will not be changed. The existing lot occupancy is 83.5% and will increase 1.5%. The existing court is 10.8 feet and will not be changed. None of these nonconformities can be lowered without destroying or significantly changing the character of the existing contributing historic building.

Granting the variances requested by this application would allow the applicant to expand and improve the building in a manner consistent with the historical nature of the structure and within the permitted FAR for the property. Without these variances, no addition to the existing structure would be possible.

Substantial Detriment

In addition to the above tests, §3103.2 further requires that the relief requested will not be a substantial detriment to the public good or substantially impair the intent, purpose and integrity of the zone plan. The proposed addition is in keeping with the intent and purpose of the zone plan as it will not exceed its FAR and will be put to a use permitted within the zone district. A building outside of the historic district would be allowed to eliminate the nonconformities preventing additions. Since this building is of historic value and it has been determined that the existing nonconforming building contributes to the historic character of the neighborhood and the city, OP believes that relieving the applicant from strict adherence to the zoning regulations will not impair the intent or integrity of the plan.

OP also finds no reason to believe that there will be any detriment to the public good. The proposed change will add only one residential unit to the property while improving the quality of the existing structure and maintaining the retail presence on the street. The improvement and future usage of this retail frontage is in keeping with the ongoing planning for the Shaw neighborhood.

ANC Recommendation

The applicant has informed OP that ANC 2F is in support of the application. As of this date no letter has been received from the ANC regarding this application.

Agency Comments

The Historic Preservation Review Board has reviewed the proposed addition and approved the plans at its meeting of September 26, 2001.

Recommendation

The Office of Planning concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3103.2 of the Zoning Regulations, for the granting of a variance to permit the addition of a third story on the subject property. The request can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the Zoning Regulations.

The Office of Planning **recommends approval** of the variances to lot occupancy, rear yard, court width, and addition to a nonconforming structure by the Board of Zoning Adjustment to allow the addition to the property at 1320 9th Street NW.

AA/tp