GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Andrew Altman, Director

DATE: November 9, 2004

SUBJECT: BZA Case #17233, Variance Request

I. OFFICE OF PLANNING RECOMMENDATION-IN-BRIEF

The Office of Planning recommends that this application to permit additions to an existing non-conforming dwelling be approved. If the Board agrees with OP that special exception relief is also required for roof-top mechanical penthouse setback, OP recommends approval of this relief as well.

II. APPLICATION-IN-BRIEF

Location 2237 10th Street NW
Square 357, Lot 92, Ward 1; ANC 1B

Applicant: Jeffemel Architects / Planners for York Van Nixon, IV

Zoning: R-5-B

Proposal: Construction of a third floor addition to an existing non-conforming row dwelling.

Relief Sought: Variances from § 2001.3 to permit an addition to an existing non-conforming structure and §402.4, floor area ratio, pursuant to §3103.2.

III. EXECUTIVE SUMMARY

The applicant is proposing to construct an upper story addition to an existing rowhouse on a very small and shallow lot. Due to the lot size and dimensions, the existing dwelling is non-conforming for lot occupancy and rear yard setback. The addition would increase the house size from 800 square feet to about 1,200 square feet. The applicant has requested relief from §2001.3, to allow an addition to an existing non-conforming structure, and §402, floor area ratio. OP believes that relief from §400.7(b) is also required as a proposed roof-top enclosure does not provide the required setback from either the rear or side lot lines. OP feels that the proposal meets the relevant tests. The proposed addition is not considered excessive and is appropriately designed to complement the building. As such, OP recommends approval of this application.

IV. AREA AND SITE DESCRIPTION – Refer to Location Plan Attachment I, Site Plan Attachment II, and Context Photos Attachment III

The property is located within the triangularly shaped Square 0357, bound by 10th Street NW to the west; Florida Avenue NW to the east; and W Street NW to the south. The remainder of the square is developed with rowhouse dwellings.

Board of Zoning Adjustment
District of Columbia
CASE NO. 17233
EXHIBIT NO. 24

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Exhibit No. 24

The subject site is located mid-block facing 10th Street NW. Although it has a wide frontage of over 23 feet, it is very shallow with a depth ranging from about 17 to 23 feet. The application indicates that total lot area is 479 square feet; District records and OP calculations indicate that the lot is actually 519 square feet. OP analysis is based on this slightly greater lot area. Much of the site is covered with the existing two-story rowhouse, which appears to have been originally constructed over 100 years ago, so the house is currently non-conforming for lot occupancy and rear yard setback. There is limited access to a rear alley.

V. PROJECT DESCRIPTION

The owners propose to construct a new third story addition, as well as internal alterations to the ground floor, and alterations and stair additions to the second story. A new roof-top penthouse containing mechanical equipment for the house and a stairway would also be added.

VI. AREA ZONING – R-5-B

The property and the remainder of the square are zoned R-5-B, which permits row dwellings to a maximum height of 50 feet.

VII. REQUESTED VARIANCE RELIEF (refer to Project Profile, Attachment IV)

The applicant requested relief from floor area ratio, lot occupancy and rear yard setback requirements. However, the DCRA certification does not note a need for lot occupancy or rear yard relief. The proposal is not increasing the existing lot occupancy non-conformity, so relief from this section is not required. With regards to rear yard, §404.4 provides that "*In the case of a building existing on or before May 12, 1958, an extension or addition may be made to the building into the required rear yard; provided, that the extension or addition shall be limited to that portion of the rear yard included in the building area on May 12, 1958.*" In this case, the upper story encroachment is entirely on top of pre-1958 lower level construction, so rear yard setback relief is also not required. The applicant requires the following variance relief pursuant to §3103:

	Zoning Regulation:	Existing	Proposed:
1.	**Floor Area Ratio:** (§402.4) – 1.8 max. (934 sq.ft. on this lot)	1.54	2.32 proposed (1,203 sq.ft.) – variance required.
2.	**Addition to an Existing Non-conforming building** (§2001.3)	Non-conforming for lot occupancy and rear yard	Non-conforming addition to a non-conforming structure – variance required.

The existing house conforms to floor area ratio regulations, but the addition would increase FAR to 2.32, which is greater than the maximum permitted. Variance relief from this section is required.

Section 2001.3 of the Zoning Regulation states, *"Enlargements or additions may be made to the* (existing non-conforming) *structure; provided:*

(a) The structure shall conform to percentage of lot occupancy requirements;
(b) The addition or enlargement itself shall:
(1) Conform to use and structure requirements; and
(2) Neither increase or extend any existing, nonconforming aspect of the structure; nor
(3) Nor create any new nonconformity of structure and addition combined."

Because the existing house is non-conforming to lot occupancy requirements, and because the proposed addition would create a new non-conformity (floor area ratio), variance relief from this section is also required. Both variances are the result of the small lot size.

Does the property exhibit specific uniqueness with respect to exceptional shape, narrowness, shallowness, topography or other extraordinary or other exceptional situations or conditions?

Yes. At only 519 square feet in area and 17 to 23 feet in depth, this property is exceptionally and uniquely small and shallow. Most of the lots on this square are larger, many of them considerably so, and the average lot size for the square – 724 square feet – would permit a rowhouse larger than the proposed dwelling size. The subject lot is the shallowest developed lot in the square, and the average lot depth for the square is 54 feet, which, while shallow, is about 2.5 times that of the subject lot. 1903 historic maps show the lot developed with a house in the configuration of the existing one, so it appears that the house significantly predates the current zoning regulations.

Does the extraordinary or exceptional situation impose a practical difficulty that is unnecessarily burdensome to the applicant?

Yes. The small lot permits a rowhouse of only about 930 square feet. As such, a conforming addition would be limited to about 130 square feet. However, the existing building footprint and design would not permit such an addition on an existing floor level. An addition of this size as a new story would be impractical due to the size of the stairway that would be needed to access it. As such, essentially no practical addition to the existing one-bedroom rowhouse would be possible without a variance.

Can the relief be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations and Map?

Yes. The lot is unusually small and could not be created under current regulations. However, it is a legal lot and is developed with a small rowhouse. The proposed third story addition to create a house of 1,200 square feet in size would not be out of character with reasonable expectations for a rowhouse dwelling, or with rowhouse development on the block. In fact, even with the addition, the house would be smaller than the permitted square footage on an average lot on this square. The addition is designed to compliment the existing dwelling and the streetscape, is well within height limits, and does not increase lot occupancy.

VIII. ADDITIONAL SPECIAL EXCEPTION RELIEF - Rooftop Penthouse (§400.7b)

	Zoning Regulation:	Proposed:
3.	**Mechanical Penthouse Setback:** (§400.7) – Equal to penthouse height = 7'-2" required	Approx. 10' front' 0' side; 0' rear – special exception required.

In reviewing the proposed plans, OP noted that relief for the rooftop penthouse also appears to be required. The penthouse encloses mechanical equipment for the house, and would be located along the rear and side walls of the house, so would not provide the required setback from the side or rear building facade. It would provide the required setback from the front facades of the building. §411.11 provides for BZA approval of a special exception when "*operating difficulties, size of building lot, or other conditions related to the building or surrounding area ... would tend to make*

full compliance unduly restrictive, prohibitively costly, or unreasonable ... provided, that the intent and purpose of this chapter and this title shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely". In this case, as is described below, the lot is exceptionally small, and the penthouse has been designed and sited to minimize visual, light or air impacts.

Will the special exception be in harmony with the general purpose and intent of the Zoning regulations and Maps?

Due to the small lot size and small resulting building footprint, a mechanical penthouse is physically not possible. At 7'-2" in height and an area of about 67 square feet (17% of the building footprint), the penthouse conforms to size restrictions in the zoning regulations. The penthouse provides a setback of over 10' from the front façade, whereas a setback of 7'-2" would meet regulation requirements. Although mechanical penthouses may not be the norm for rowhouses, they are not uncommon and, in this case, a reasonable solution given the small lot size (and the desire to maximize living area on the levels below) and the lack of a basement under the existing house.

Will the special exception adversely affect the use of neighboring property in accordance with the Zoning Regulations and Maps?

The penthouse is set back from the front façade, so should not be highly visible from the street. Directly to the north is the roof of the adjacent rowhouse, so there should be no light or air impediments to neighboring houses or yards. The height and the area of the penthouse have been kept to a minimum to accommodate the mechanical equipment and access stairs.

IX. COMMUNITY COMMENTS

At its October 7, 2004 meeting, ANC 1B voted unanimously to support this proposal.

X. OTHER AGENCY COMMENTS (refer to Attachment V)

OP has not received comments on this application from any other District agency.

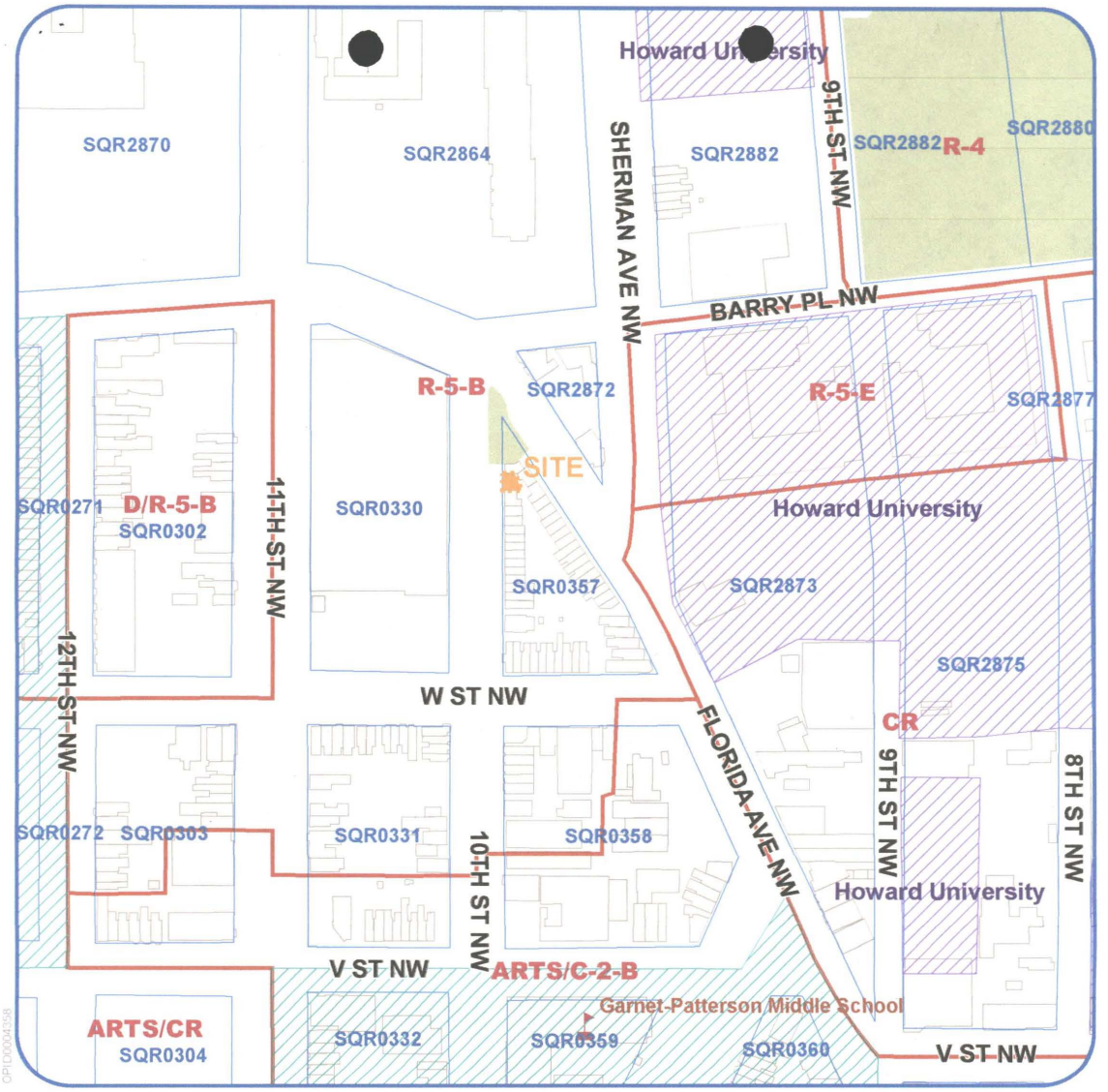
XI. OP SUMMARY RECOMMENDATION

OP believes that this application adequately meets the variance and special exception tests. The project is designed to complement the existing dwelling, and has received unanimous support from the ANC. As such, OP recommends approval.

AA/jl

ATTACHMENTS:

I. Context Plan
II. Site Plan
III. Context Photos
IV. Project Profile



Location Plan - BZA Case # 17233
2237 10th Street NW - LOCATION PLAN

Legend

- Property Squares
- Zoning Districts
- Greater U Street Historic District
- College Campuses
- Public School Sites

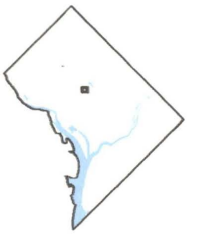
Government of the District of Columbia
Anthony A. Williams, Mayor

Office of Planning ~ November, 2004

This map was created for planning purposes from a variety of sources. It is neither a survey nor a legal document. Information provided by other agencies should be verified with them where appropriate.

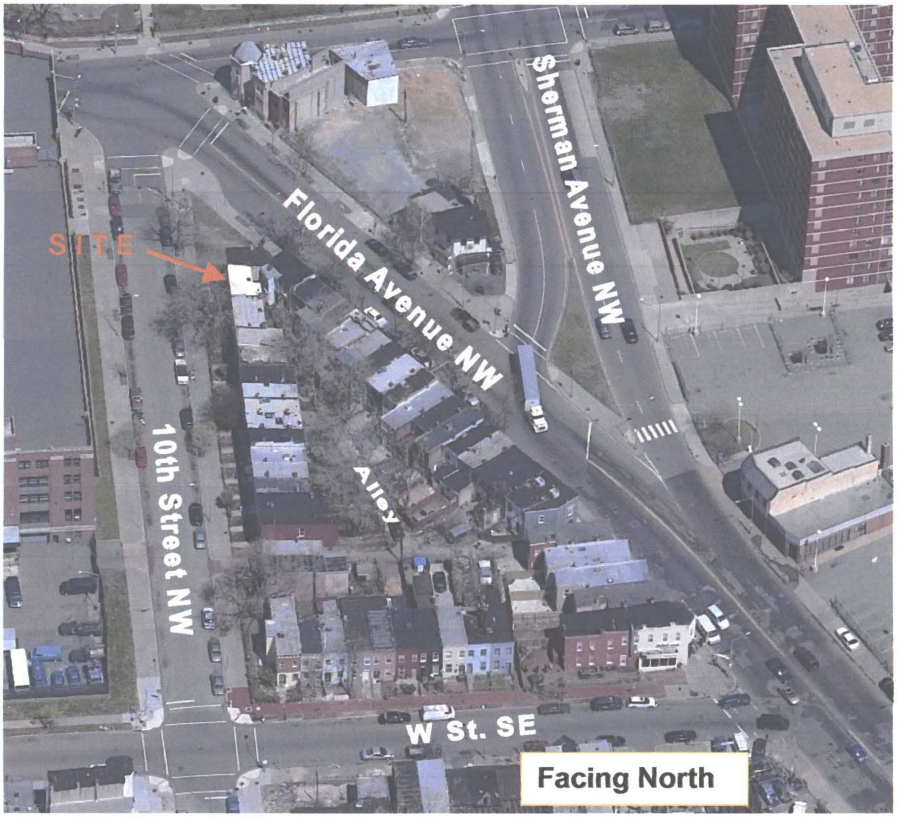
Feet
0 100 200 300

N



Attachment I


Florida Avenue NW
Alley
W St. SE
SITE
10th Street NW
Facing East


Sherman Avenue NW
Florida Avenue NW
SITE
10th Street NW
Alley
W St. SE
Facing North



OPD0004357

Legend

- Property Squares
- Zoning Districts
- College Campuses
- Single Family Dwelling
- Retail Store
- Restaurant
- Parking Lot
- Industrial
- Vacant; 197

Location Plan - BZA Case # 17233
2237 10th Street NW - SITE PLAN

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Anthony A. Williams, Mayor

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Feet
0 50 100

N

Attachment II

Standard	R-5-B Zone Regulations	Existing /	Proposed[1]	Relief
Development Type:	Row dwelling permitted	Row dwelling	Row dwelling	Conforming
Height: (§400.1)	50 ft.	23.3 ft.	32.2 ft.	Conforming
Stories: (§400.1)	No prescribed	2	3 + mechanical penthouse	Conforming
Lot Area: (§401.3)	None prescribed	519 sq.ft.	519 sq.ft.	Conforming
FAR: (§402.4)	1.8 max.	1.54	2.32	**Variance required (.52 FAR)**
Sq.Ft.:	934 sq.ft. max.	802 sq.ft.	1,203 sq.ft.	
Lot Occupancy: (§403.2)	60% max. = 311.4 sq.ft. max.	78% (405 sq.ft.)	78% (405 sq.ft.)	Existing non-conforming
Rear Yard: (§404.1)	4" / ft of height; 15' min., mean	10' mean	10' mean	Conforming [2]
Side Yard: (§405.9)	None required	None	None	Conforming
Parking: (§2101.1)	1 on-site min.			
Non-conforming structures: (§2001.3)	Conditions for permitted enlargement[3]	Non-conforming for lot occupancy, rear yard	Non-conforming for lot occupancy, new FAR non-conformity	**Variance Required**
Rooftop Penthouse setback (§400.7)	Equal to penthouse height = 7'-2"	N/a	Approx. 10' front' 0' side; 0' rear	**Special Exception required**

1 Information provided by the applicant.

2 Although the proposed upper floor would be located partially within the rear yard, §404.4 states that "*In the case of a building existing on or before May 12, 1958, an extension or addition may be made to the building into the required rear yard; provided, that the extension or addition shall be limited to that portion of the rear yard included in the building area on May 12, 1958.*" As the building was in existence well before 1958, and the proposed addition does not extend beyond the current building footprint, relief is not required.

3 "*2001.3 Enlargements or additions may be made to the* (existing non-conforming) *structure; provided:*
(a) The structure shall conform to percentage of lot occupancy requirements;
(b) The addition or enlargement itself shall:
(1) Conform to use and structure requirements; and
(2) Neither increase or extend any existing, nonconforming aspect of the structure; nor
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