GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Ellen McCarthy
Director

DATE: November 14, 2005

SUBJECT: BZA Application 17397

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 17397
EXHIBIT NO. 27

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APPLICATION
David N. Jackson, the applicant, requested a variance from the maximum allowable lot occupancy percentage under § 403.2 to complete conversion of a single-family row dwelling into a flat on property located at 1008 S. Carolina Avenue, S.E. (Square 970 Lot 23) pursuant to § 3103.2 under Title 11 of the District of Columbia Municipal Regulations (DCMR), Zoning.

SUMMARY RECOMMENDATION
The Office of Planning supports approval of this request.

SITE AND AREA DESCRIPTION
The subject property is an irregularly shaped lot along the northern frontage of South Carolina Avenue, S.E. This property, the smallest lot on the square at 921 square feet (0.02 acres), is developed with a 2.5 story single-family row dwelling, one of two vacant buildings currently being renovated along the street frontage. An alley 15-foot wide extending west from 10th Street, S.E. abruptly turns northeast along the irregular rear property boundary. A new façade has been erected but the rest of the renovation has not been completed. Wooden fences approximately 6 feet tall on the adjacent properties extend along both side property lines.

Surrounding development consists mostly of 2-3 story row dwellings of masonry construction and similar scale. This site and the surrounding properties are located in a Residential (R-4) zone district and the Capitol Hill Historic District (please refer to Exhibit 1).

APPLICANT'S PROPOSAL
Building Permit No. B459176 was issued for interior renovation of the existing one-family dwelling into 2-unit building (flat) in February 2004. Building Permit No. B464061 was issued in July 2004 for partial demolition of the deteriorated upper portion of the rear building façade. Instead of rebuilding the rear façade per the approved building plans, a new rear façade was constructed in line with the neighboring building to the east that eliminated an existing open court on the same side that was 6 feet 4 inches wide and 7 feet deep. On June 29, 2005, the

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Department of Consumer and Regulatory Affairs (DCRA) issued a Stop Work Order finding that this change was "outside the scope" of approved permits.

The applicant would like to leave existing construction in place. Incorporating the open court into the building would add approximately 44 square feet on two floors expanding the first floor kitchen area and enlarging a second floor space sufficiently for it to serve as a bedroom. Besides extending the floor plates and finishing the roof, the submitted plans call a retaining wall in the rear yard with steps down to the basement apartment, a stair from the rear yard up to the ground-floor landing, and a second floor balcony. Previously there was no parking in the sloped rear yard and no parking is proposed.

No other exterior changes are proposed. The zoning tabulation submitted with this application indicates the construction increased the current lot occupancy from 64% to 71%, both more than the maximum 60% allowed as a matter of right in the R-4 zone district. The applicant submitted this variance application because the desired lot occupancy is not otherwise allowed under the Zoning Regulations.

EXISTING ZONING AND RELIEF REQUESTED

The site is in an R-4 zone district and § 331.1 (a) of the Zoning Regulations allows a single-family row dwelling and flat as a matter of right under §§ 320.3 (b) (per § 330[a]) and 330.5 (b). The property is also subject to the following requirements:

Standard	R-4 Requirement	Original Building	Building w/ Addition	Relief Required
Lot Width (Flat)	18	17	17	N/A
Lot Area	1,800 s.f.	921 s.f.	921 s.f.	N/A
Side Yard	None	None	None	No
Rear Yard	20 feet	12 feet [1]	12 feet	No
Lot Occupancy	60% (553 s.f.) [2]	66% (607 s.f.)	71% (652 s.f.)	Yes
Height	40 feet, 3 stories	26 feet [1]	26 feet	No
Open Court (flat) [3]	4 in./vertical ft., not less than 10 ft. (10 ft.)	7 feet	None [4]	N/A
Parking (on-site)	1 space/2 units	None	None	No

Based on the above summary, the rear yard dimension and lot occupancy percentage were nonconforming prior to the addition, and the open court became nonconforming with the addition. Zoning Regulations include the following provisions for expansion of nonconforming structures with allowable uses:

[1] Approximate dimension scaled from the submitted plat and rear elevation
[2] Maximum lot occupancy based on the allowable percentage
[3] Minimum required open court width for a single-family row dwelling is 6 feet
[4] Addition eliminated the rear open court that did not have the required width dimension for a flat

"2001.3 Enlargements or additions may be made to the (nonconforming) 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) Create any new nonconformity of structure and addition combined."

While the addition eliminated the nonconforming open court, the dwelling does not conform to the lot occupancy requirement and increased the nonconformity of lot occupancy percentage from approximately 5% to 11% over the maximum 60% allowed as a matter-of-right. The resulting 71% lot occupancy is also greater than the 70% allowable in an R-4 zone district with special exception approval under § 223.

As a result this application requires variances from the Zoning Regulation lot occupancy requirement.

ANALYSIS
The zoning relief needed is a "area" variance that requires circumstances surrounding this request are "unique" and that the usual application of the particular regulation would result in "peculiar and extraordinary practical difficulties."

Compliance with Section 3103.2:

- Extraordinary or exception conditions: The Memorandum from H.L. Walker dated July 6, 2003 notes the turning point of the adjacent alley creates a uniquely irregular rear boundary. The lot is exceptionally small at 923 square feet. The property was developed in 1908 and does not meet current minimum lot width and area standards in the R-4 zone district of 1,800 square feet and 18 feet minimum width, respectively. Previously the existing dwelling also did not meet lot occupancy percentage and rear yard setback requirements. Based on this information this site is "exceptional" within the square primarily due to its size and shape.

- Peculiar and Extraordinary Practical Difficulties: Approved building permit plans would have retained the nonconforming lot occupancy percentage as allowed under § 2001.3(b)(2). The unauthorized modification that eliminated the open court further increased this nonconformity. While the Memorandum notes this change "was logical and less expensive", it does not explain why the existing wall could not be maintained consistent with the Zoning Regulations that permit continuation of the existing nonconformity.

If the Office of Planning had been informed about this proposal in advance, staff would have recommended reducing the addition so the total lot occupancy did not exceed 70% and pursuing a special exception under § 223.1. Now this would require reducing the building floor area by approximately 7 square feet, equivalent to moving the now constructed rear wall 6 inches to the south.

Since the new masonry wall has already been constructed, staff thinks demolishing and reconstructing the rear wall to meet referenced 70% lot occupancy standard presents a practical difficulty.

Since the Office of Planning concurs with the applicant that the proposal would otherwise meet the referenced special exception standards, staff determined this request could be granted without substantially impairing the intent, purpose and integrity of the zone map as embodied in the Zoning Regulations and Map.

COMPREHENSIVE PLAN
The Comprehensive Plan Generalized Land Use Map designates this area for Moderate Density residential development characterized by row houses and garden apartments as predominant uses. A flat use is not inconsistent with this designation.

COMMUNITY COMMENTS
Advisory Neighborhood Commission (ANC) 6B unanimously recommended approval of this request during its regular meeting on November 8, 2005. Letters of support were provided by neighboring residents of 1006 and 1010 South Carolina Avenue, S.E.

The Capital Hill Restoration Society also recommended approval of a variance from the percentage of lot occupancy limitation in a letter dated November 10, 2005.

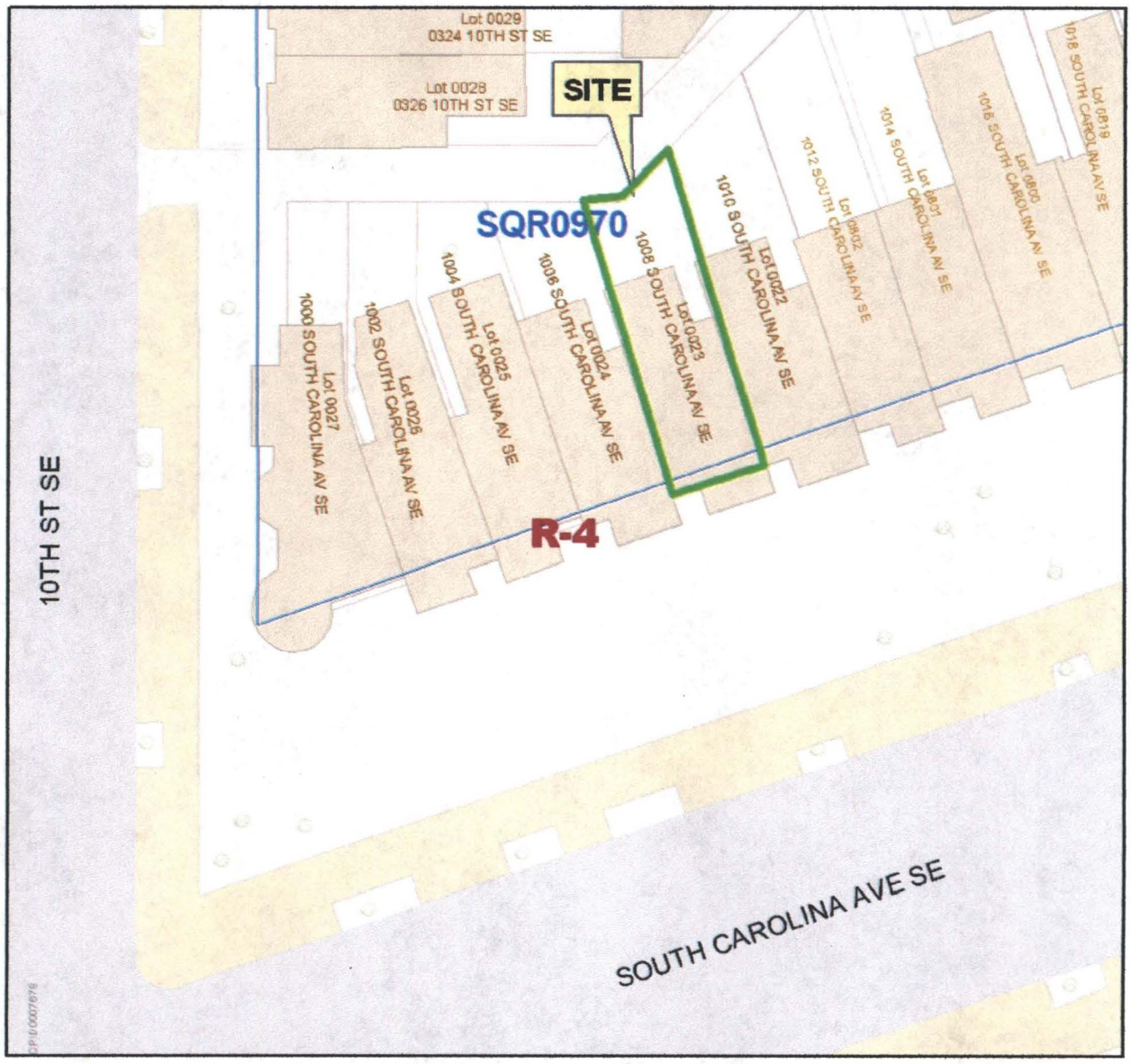
AGENCY COMMENTS
The State Historic Preservation Office reviewed and approved the original renovation plans. SHPO will review the project again if and when the applicant submits plans for another Building Permit.

RECOMMENDATION
The Office of Planning supports approval of this request.

EMc/afj

Attachment: Exhibit 1 Aerial Including Zoning
Exhibit 2 Letter from Scott Cernich, Chairperson, Advisory Neighborhood Commission 6B to Arthur Jackson, Development Review Specialist, D.C. Office of Planning dated November 14, 2005

Exhibit 1



BZA 17397 1008 South Carolina Ave SE

N

Feet
0 20 40

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

Office of Planning – November 8, 2005

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. Oblique imagery ©2003 Pictometry International

Legend

- Property Squares
- Buildings
- Trees
- Street Centerlin
- Curbs
- Zoning Districts
- Sidewalks
- Roads

Exhibit 2

ANC 6B

Capitol Hill / Southeast

921 Pennsylvania Ave SE
Washington, DC 20003
202.543 3344
FAX 202.543 3507

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SMD 9 *Antonette Russell*
SMD 10 *Francis Campbell*
SMD 11 *Vacant*

November 14, 2005

Arthur Jackson
Office of Planning
801 North Capitol Street, NE
Suite 3000
Washington, DC 20002

Re: BZA Case # 17397
1008 South Carolina Ave., SE

Dear Mr Jackson,

At its regularly scheduled and properly noticed meeting on November 8, 2005 with a quorum present, ANC 6B voted unanimously (10-0-0) to support the application of David N. Jackson for variance from lot occupancy and non-conforming structure, as it was presented to us.

Please notify the Commission if you have any questions or comments.

Yours truly,

Scott Cernich
Chairperson