

## **MEMORANDUM**

**TO:** District of Columbia Board of Zoning Adjustment

**FROM:** Anne Fothergill, Case Manager  
*JL* Joel Lawson, Associate Director for Development Review

**DATE:** April 5, 2016

**SUBJECT:** BZA Case 19164 – 17 U St NW, relief for a proposed third floor expansion in R-4

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### **I. RECOMMENDATION**

The Office of Planning (OP) recommends **approval** of the following variance relief:

- § 2001.3 for the expansion of an existing non-conforming structure (non-compliant in lot occupancy § 403 and open court § 406)
- § 406.1 to allow for the expansion of an existing non-conforming open court to allow for a third story expansion of an existing three-story structure
- § 403.2 to permit construction of a rear spiral staircase in excess of the allowable lot occupancy percentage (proposed .35% increase)

OP also recommends **approval** of the following Special Exception:

- § 400.24 (a) to allow for the alteration of an existing rooftop architectural element original to the building

\*Note: The Applicant is no longer requesting relief for building height or number of stories.

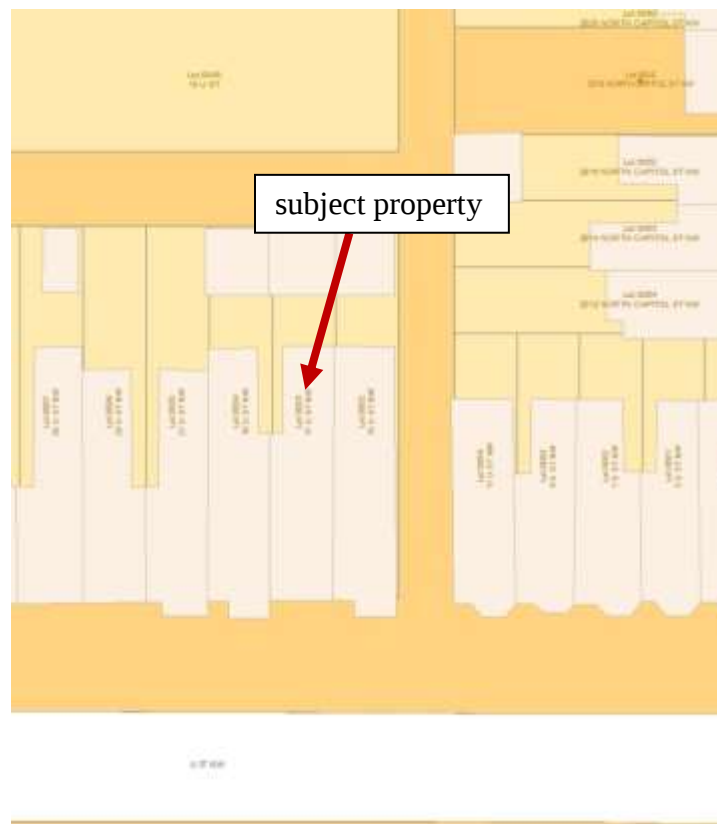
### **II. BACKGROUND**

The OP report dated February 23, 2015 (Exhibit 41) recommended denial of the application for zoning relief from the R-4 requirements for building height and number of stories. After the BZA hearing on March 1, 2016, the Applicant submitted revised plans and is no longer requesting relief for height or number of stories. The Applicant also provided additional information regarding the Property and the structural condition of the house, allowing OP to better understand and evaluate the requested relief.

### III. LOCATION AND SITE DESCRIPTION

|                               |                                                                                                                                                                                                                                                                                                                                                                                       |
|-------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Address</b>                | 17 U Street, N.W.                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Legal Description</b>      | Square 3117, Lot 0046                                                                                                                                                                                                                                                                                                                                                                 |
| <b>Ward and ANC</b>           | Ward 5, ANC 5E                                                                                                                                                                                                                                                                                                                                                                        |
| <b>Lot Characteristics</b>    | A 1,700 SF rectangular lot with an alley at the rear (north)                                                                                                                                                                                                                                                                                                                          |
| <b>Zoning</b>                 | R-4 - 3-story row dwellings and flats are allowed in this district                                                                                                                                                                                                                                                                                                                    |
| <b>Existing Development</b>   | The subject property is improved with a 3-story plus cellar* 1906 row dwelling and a garage at the rear of the property.                                                                                                                                                                                                                                                              |
| <b>Historic District</b>      | N/A                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>Adjacent Properties</b>    | The subject property is located on a block of residential row dwellings. The rowhouses directly to the east and west have similar footprints and garages at the rear on the alley. Behind the houses on this block of U Street to the north of the alley is Crispus Attucks Park. Across the street to the south is the rear of an apartment building that faces Rhode Island Avenue. |
| <b>Neighborhood Character</b> | The property is located within a residential neighborhood consisting primarily of row dwellings. To the east, the block of North Capitol Street located in this square consists of residential row dwellings.                                                                                                                                                                         |

\*number of stories determined by the Applicant



#### **IV. APPLICATION IN BRIEF**

The Applicant proposes to enlarge the existing third floor of the subject property and construct a new roof deck off the rear of the top floor.

The Applicant also proposes to construct two 58 SF rear balconies off the rear of the 2<sup>nd</sup> and 3<sup>rd</sup> story and to install spiral staircases from the top floor deck to grade. Both height and lot occupancy are currently non-conforming and the applicant proposes a very small increase in lot occupancy (.35%) due to the rear stair replacement and a one foot increase to the overall building height measurement, which will remaining within the maximum allowable 35 feet.

Initially the Applicant was proposing top floor expansion but requesting different relief. The Applicant did not propose an addition to the rear of the house because of the existing non-conforming lot occupancy of 88% and instead proposed an expansion of the top floor with no footprint expansion other than the change to an exterior spiral staircase. The Application is self-certified and is not based on the Zoning Administrator's referral memo.

#### **V. ZONING REQUIREMENTS AND RELIEF REQUESTED**

| <b>R-4 Zone</b>    | <b>Regulation</b> | <b>Existing</b>    | <b>Proposed</b>              | <b>Relief</b>          |
|--------------------|-------------------|--------------------|------------------------------|------------------------|
| Lot Width §401     | 18 feet min.      | 17 feet            | no change                    | existing nonconforming |
| Lot Area §401.3    | 1,800 SF min.     | 1,700 SF           | no change                    | existing nonconforming |
| Lot Occupancy §403 | 60% max.          | 88.38%             | 88.73%                       | Variance requested     |
| Height §400        | 35'               | 34'                | 35'                          | none requested         |
| Stories §400       | 3 stories         | 3 stories + cellar | 3 stories + cellar           | none requested         |
| Open Court §406.1  | 12'               | 5'                 | 5'                           | Variance requested     |
| Rear Yard §404.1   | 20 feet min.      | 27'                | no change (garage to remain) | none requested         |

## **VI. OFFICE OF PLANNING ANALYSIS**

### **a. Variance Relief from § 403, Lot Occupancy; § 406, Court, and § 2001, Nonconforming Structures**

The Board of Zoning Adjustment may grant a variance under § 3103.2 upon a showing that:

- i. The property is affected by exceptional size, shape or topography or other extraordinary or exceptional situation or condition which results in a practical difficulty to the owner;**

The subject lot is substandard, measuring 17 feet by 100 feet with an area of 1,700 square feet, below the 1,800 SF minimum lot area in the R-4 zone. The property's non-conforming open court counts toward lot occupancy, which increases the lot occupancy by approximately 8%. In the recently approved zoning regulations, which will go into effect later this year, a non-conforming open court will not count towards lot occupancy, but even without the open court, this property would still have approximately 80% lot occupancy and a variance would be needed for any expansion. The Property has a garage which adds to the existing non-conforming lot occupancy. Because of the substandard lot, the open court, and the existing garage, the Property's buildable area is constrained. The Property has had major structural damage that requires roof reconstruction and needs vertical expansion for stairwell code compliance, which is primarily why the Applicant proposes rehabilitation and expansion of the top floor and overall renovation of the house.

- ii. The variance would not cause substantial detriment to the public good and would not substantially impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and map.**

The Applicant has revised the application and is no longer requesting relief for an increase over the maximum allowable height and number of stories in the R-4 zone. The building's height will generally continue to read the same as seen from the street. The proposed top floor expansion would not occupy the entire footprint of the lower levels. The adjacent neighbors and the ANC support the proposed expansion. As such, the requested relief would not appear to cause substantial detriment to the public good.

## **VII. Special Exception Relief pursuant to §400.23 and §400.25**

Under §400.24 in an R-4 Zone District, the following provisions shall apply:

- (a) A roof top architectural element original to the building such as a turret, tower or dormers, shall not be removed or significantly altered, including changing its shape or increasing its height, elevation, or size;**

- (b) Any addition, including a roof structure or penthouse, shall not block or impede the functioning of a chimney or other external vent on an adjacent property required by any municipal code; and
- (c) Any addition, including a roof structure or penthouse, shall not interfere with the operation of an existing or permitted solar energy system on an adjacent property, as evidenced through a shadow, shade, or other reputable study acceptable to the Zoning Administrator.

§ 400.25 states that relief from the design requirements of § 400.24 may be approved, subject to the conditions of § 400.23(a), (b), and (c).

**Special Exception from §400.24 pursuant to § 400.23:**

- (a) The applicant shall demonstrate that the overall building or structure height or upper addition will not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:
  - (1) The light and air available to neighboring properties shall not be unduly affected;

The building footprint would not expand. The adjacent neighbors do not have roof access and the rooftop expansion should not affect the light and air of neighboring properties.

- (2) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;

The adjacent neighbors support the project. The plans show limited windows on one side elevation of the addition. The proposed balcony off the expanded top story would be located at the rear and should not impact neighboring properties' privacy.

- (3) An addition shall not block or impede the functioning of a chimney or other external vent on an adjacent property required by any municipal code;

The proposed addition would not block a chimney or vent but it could be a code issue if it is adjacent to the subject property's chimney, which the Applicant will address if needed.

- (4) An addition shall not interfere with the operation of an existing or permitted solar energy system on an adjacent property, as evidenced through a shadow, shade, or other reputable study acceptable to the Zoning Administrator; and

The Applicant has stated that the adjacent properties do not have a solar energy system.

- (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;

The bulk of the proposed addition would not be readily visible from the street, although the new roof form would be slightly visible from U Street. The addition would be visible from the rear alley, but the addition's massing does not extend to the rear of the existing footprint of the lower levels, which would reduce its visibility and visual impact from the rear.

- (b) The applicant shall demonstrate that overall building or structure height or an upper addition resulting from the additional five feet (5 ft.) will not have a substantially adverse effect on the defining architectural features of the building or result in the removal of such features; and

To preserve the integrity of a rooftop feature like this building's front gable, OP would recommend that an expansion should allow the feature to continue to read as a stand-alone feature when viewed from the street. The proposed expanded roof design was altered from the initial submission (Exhibits 9 and 12) which lessened the impact on the form of the original front gable. The revised plans (as shown in the plans submitted March 28, 2016 -no Exhibit number) show a reduction in the proposed building height which further allows the retention of the form of the front gable and mitigates any adverse impacts to the architectural feature.

- (c) In demonstrating compliance with §§ 400.23(a) and (b), the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the new or extended building or structure to adjacent buildings and views from public ways.

The Applicant provided sufficient plans and photographs. However, the plans have changed a number of times and there may be some inconsistencies and should the Applicant proceed with a building permit, those would need to be addressed.

## **VIII. COMMENTS OF OTHER DISTRICT AGENCIES**

DDOT has no objection to the application (Exhibit 27).

## **IX. COMMUNITY COMMENTS**

The ANC supports the application (Exhibit 28) but the relief may have changed since this was presented to the ANC. The Applicant submitted signed forms of workplan notification from two adjacent neighbors (Exhibit 11).