

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: *JL* Joel Lawson, Associate Director Development Review
DATE: April 24, 2017

SUBJECT: Waiver of Rules for Late Submittal of Op's Report on BZA 19467 requesting a Special Exception and variance for an addition to a dwelling located at 1 Library Court S.E.

The attached report, concerning the above referenced application is submitted less than 10 days prior to the Board of Zoning Adjustment's Public Hearing. The Office of Planning respectfully requests that the Board waive its rule and accept the report into the record.

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Karen Thomas, Case Manager
JL Joel Lawson, Associate Director Development Review

DATE: April 24, 2017

SUBJECT: BZA Case 19479 - request for special exception and variance relief to convert an existing non-conforming alley tax lot to a record lot and to permit a one-story rear addition to an existing one-family row dwelling on an alley lot in the RF-3 zone at 1 Library Court, S.E. (Square 788, Lot 826).

I. OFFICE OF PLANNING RECOMMENDATION

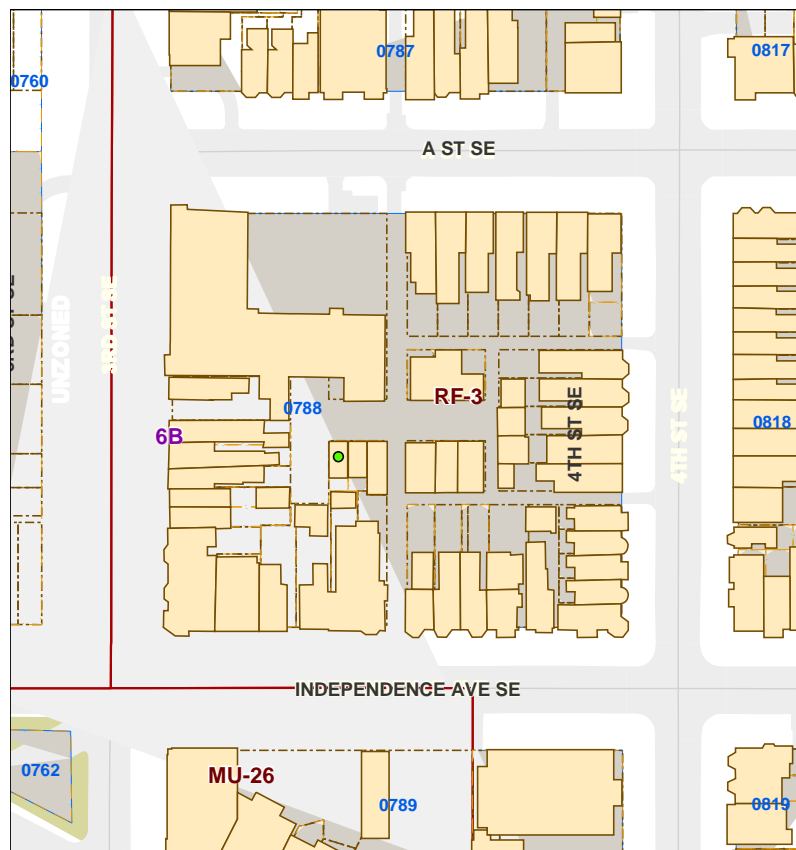
The Office of Planning (OP) recommends **approval** of the following:

- A. Area variance pursuant to Subtitle X Chapter 10 to convert the pre-1958 tax lot to a record lot:
- E § 201.1, minimum lot area (1,800 sq.ft. required, 531.3 sq.ft. existing and proposed);
 - E § 201.1, minimum lot width (18 feet required, 14.17 feet existing and proposed); and
 - C § 202.2, addition to a nonconforming structure.
- OP was uncertain whether the conversion of a pre-1958 tax lot to a record lot would be permitted by special exception pursuant to Subtitle E § 5201.1, or by area variance. The applicant requested an area variance, so this is how OP reviewed the application.
- B. Special exception pursuant to Subtitle E § 5204 and 5202 (Capitol Interest Zone, RF-3):
- E § 5105, side yard setback (5 feet required, 0 feet proposed);
 - E § 5104.1, rear yard setback (5 feet required, 0 feet proposed); and
 - E § 5107, pervious surface (10% required, 0 % existing and proposed).
- C. Special Exception pursuant to Subtitle C § 1504
- E § 1502.1 (b) and (c): to permit a deck railing not meeting the 1:1 setback required: 6 feet required; 3 feet proposed.
- D. Special Exception pursuant to Subtitle E 5201 and 1502:
- E § 205.4 to permit a rear addition in excess of the maximum permitted 10 feet: 11.04 feet proposed. Although not yet in effect, OP has provided analysis of this relief pursuant to the special exception requirements of E § 5201.

The applicant also requested relief from parking requirements of Subtitle C § 704, but this is an existing non-conforming not being expanded, so relief does not appear to be necessary.

II. LOCATION AND SITE DESCRIPTION

Address	1 Library Court SE
Applicant	Gay Hardwick, Agent on behalf Douglas and Diane Menorca, Owners
Legal Description	Square 788, Lot 826 (pre-1958 tax lot)
Ward / ANC	6 / 6B
Zone:	RF-3 –one-family dwellings and flats. Within the Capitol Interest Precinct.
Historic District	Capitol Hill Historic District
Lot Characteristics	Rectangular alley lot at the corner of two alleys 30 feet (east west alley) and 28 feet (north/south alley) in width, and abutting the rear of another property which fronts on Independence Avenue SE to the south. The lot abuts another alley lot to the east (#2 Library Court).
Existing Development	The property is improved with an existing two-story single-family row dwelling, which is permitted in the RF-3 zone.
Adjacent Properties	The adjacent properties to the east #2 and #3 Library Court are also improved with existing single-family residential row dwellings. The property to the south facing Independence Avenue has an existing taller accessory building along the common rear lot line.
Surrounding Neighborhood Character	The surrounding neighborhood is residential in character.
Proposed Development	The Applicant is proposing to construct a one-story rear addition with a deck. To obtain permits, conversion of the existing tax lot to a record lot is also required.



III. ZONING REQUIREMENTS and RELIEF REQUESTED

	RF-3 Zone (Alley Lot)	Regulation	Existing	Proposed ¹	Relief
1	Lot Width (ft.) E § 201	18 ft. min.	14.17 ft.	14.17 ft.	<u>Variance Relief Requested</u> to convert tax lot to record lot
2	Lot Area (sq. ft.) E § 201	1,800 sq. ft. min.	531.31sf.	531.31 sq. ft.	
3	Lot Occupancy E § 5103.1	Less than 1,800 sf = 100%	70%	100%	None required
4	Building Height E § 5102	20 ft./ 2 stories	22.125 ft.	12 ft. 7.5 in /1 story addition	Existing nonconforming
5	Nonconforming Structure C § 202.2	Neither increase or extend any existing, nonconforming aspect of the structure; nor create any new nonconformity of structure and addition combined.	Existing nonconforming structure	Existing nonconforming structure	<u>Variance Relief requested</u>
6	Rear Yard (ft.) E § 5104	5 ft. min. from any lot line of all abutting non-alley lots	11.5 ft.	0 ft. from property line of property fronting on Independence Ave.	<u>SE Requested</u>
7	Side Yard (ft.) E § 5105	5 ft. min. from any lot line of all abutting non-alley lots	0 ft.	0 ft. for addition	<u>SE Requested</u>
8	Alley Centerline Setback E § 5106	12 ft. from alley centerline	14 ft. and 15 ft.	14 ft. and 15 ft.	None Required
9	Pervious Surface E 5107.1 and C § 501.2 (b)	10%	0% (building and paved area)	0% (building)	<u>SE Requested</u>
10	Parking C § 704	1 space per du	0	0	Existing nonconforming
11	Penthouse Guardrails Setback C § 1502.1	1:1 setback from all sides on the roof - 3 feet required from east and west side walls, and from south (rear) wall ²	N/A	3 ft.	<u>SE Requested</u>
12	Rear Addition: E § 205.4 (NEW)	Rear addition not to extend beyond 10 feet beyond the farthest rear wall of any adjoining principal residential building	N/A	11.04 ft.	<u>SE Requested</u>

¹ Information provided by applicant.

² There is an existing, accessory building on the adjacent lot to the south along the common rear lot line that would be taller than the proposed addition.

IV. OP ANALYSIS

In this case, the review criteria for additions to rowhouses, for alley lots, and for buildings within the Capitol Interest area overlap somewhat. OP worked with staff from the Zoning Administrator's office to determine the nature of the relief needed and the most appropriate criteria for review.

A. Variance Relief

Variance relief has been requested to permit the recordation of the subject tax lot as a lot of record. It is a nonconforming lot that existed and was developed prior to the 1958 zoning regulations. The existing building on the lot is also nonconforming due to building height. Therefore, upon advice of staff at the Zoning Administrator's Office, relief should be requested from Subtitle C § 202³ and E § 201.1⁴ pursuant to Subtitle X 1002.1:

a. Variance Relief from C § 202.2 and E § 201.1

i. Exceptional Situation Resulting in a Practical Difficulty

The existing property predates the current ZR 16 Regulations and the prior 1958 Regulations, having been created and developed in the early 19th century. The existing lot's dimensions and structure are now nonconforming which is an exceptional situation as no new land is immediately available to rectify this nonconformity of land and related structure. This creates a practical difficulty in attaining a building permit for any home renovations.

ii. No Substantial Detriment to the Public Good

The attainment of a building permit to allow the proposed one story addition would not be a substantial detriment to the public good as it would permit the continued preservation / maintenance of a contributing structure in a historic district. Thus, maintaining its livability would be in keeping with the character of the neighborhood.

iii. No Substantial Harm to the Zoning Regulations

There would be no substantial harm to the Regulations, as granting the relief would satisfy the requirements of the issuance of permits for record lots and also satisfy § C 301.1 which states that :

A record lot existing prior to the effective date of this title that does not conform with the lot dimension and lot area requirements of the zone in which it is located may be considered a conforming lot for the purposes of building permits and uses provided any building or structure thereon shall meet the development standards of the relevant zone and provided the non-conformity shall not be increased.

The nonconformity of the lot dimensions and lot area would not be increased with this proposal. Granting this relief would allow the recordation of a lot of record, whereby valid permits could be granted for the maintenance of the property, conforming to the District Regulations.

³ Enlargement to a non-conforming structure.

⁴ The minimum lot width and minimum lot area requirements for the creation of a record lot in an RF zone

B. Special Exception Relief

E § 5204 SPECIAL EXCEPTION CRITERIA - ALLEY LOTS

To permit the proposed one story rear addition to the existing house, Special Exception relief has been requested from Rear Yard (E§ 5104); Side Yard (E§ 5105); Pervious Surface (E § 5107, per E § 5108)

5204.1 The Board of Zoning Adjustment may approve as a special exception a reduction in the minimum yard requirements of an alley lot in an RF zone as a special exception pursuant to Subtitle X, Chapter 9.

Subtitle X Chapter 901 SPECIAL EXCEPTION REVIEW STANDARDS

901.2 The Board of Zoning Adjustment is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2), to grant special exceptions, as provided in this title, where, in the judgment of the Board of Zoning Adjustment, the special exceptions:

(a) Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;

Granting the special exception relief for the rear yard, side yard and pervious surface requirement for the proposed one-story addition and deck would be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps. The addition would not be incompatible with the historic district and the Capitol Interest Zone. This is a small lot which has no side yard or existing pervious area, so that these elements would not be removed to create an adverse impact on the regulations. There is no other land area to enable an addition to the home other than the rear. As viewed from the public alley, it would be compatible with the surrounding homes as viewed from the rear and would be constructed of high quality materials. The Architect of the Capitol also opined that the addition would not be inconsistent with the RF-3 zone district.

(b) Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and

The proposed addition should not adversely affect the use of neighboring properties. The proposed addition would butt up against an existing, taller accessory building on the property to the south.

(c) Subject in specific cases to the special conditions specified in this title.

No special conditions are recommended.

E § 5202 SPECIAL EXCEPTION CRITERIA CAPITOL INTEREST ZONES (RF-3)

5202.1 In the RF-3 zone, in addition to any conditions relative to the specific special exception, any special exception application shall be subject to consideration by the Board of Zoning Adjustment as to whether the proposed development is:

(a) Compatible with the present and proposed development of the neighborhood;

The proposed one-story addition and roof deck would be compatible with the present development of the neighborhood. The relief requested from the rear yard and side yard setback and from the pervious surface limitation, would not result in an incompatible addition to a residential home. The Historic Preservation Office opined that due to the height and size of the proposed addition and the context of the alley, the project can be reviewed at staff level. (Exhibit 11)

(b) Consistent with the goals and mandates of the United States Congress in title V of the Legislative Branch Appropriation Act, 1976 (Master Plan for Future Development of the Capitol Grounds

and Related Areas), approved July 25, 1975 (Pub.L. No. 94-59, 89 Stat. 288); and

(c) In accordance with the plan promulgated under the Act.

5202.2 *Upon receipt of the application, the Board shall submit the application to the Architect of the Capitol for review and report.*

The Board referred the application to the Architect of the Capitol (AOC) for review and comment. The AOC submitted in its April 18 letter to the Board that it had no objection to the proposal, and that the proposed addition “*is not inconsistent with the intent of the RF-3 zone district and would not adversely affect the health and safety and general welfare of the U.S. Capitol Precinct...*” (Exhibit 38)

5202.3 *The Board may require special treatment and impose reasonable conditions as it deems necessary to mitigate any adverse impacts identified in the consideration of the application.*

OP does not recommend additional treatment for this single story addition as it should not adversely impact the use and enjoyment of neighboring properties. The AOC did not recommend additional treatment in its report to the Board.

C. C §1504 RELIEF TO PENTHOUSE REQUIREMENTS

Relief is required as the proposed guardrails for the deck on top of the one story addition would not provide the required setback from the rear or side building facades below.

1504.1 Relief to the requirements of Subtitle C §§ 1500.6 – 1500.10 and 1502 may be granted as a special exception by the Board of Zoning Adjustment subject to Subtitle X, Chapter 9 and subject to the following considerations:

(a) The strict application of the requirements of this chapter would result in construction that is unduly restrictive, prohibitively costly, or unreasonable, or is inconsistent with building codes;

Due to the lots size and the resulting small size of the proposed addition, it would be unduly restrictive to set back the guardrail of the proposed deck, as it would unduly reduce the already small deck area for passive recreation purposes, which is not available to the homeowner.

(b) The relief requested would result in a better design of the roof structure without appearing to be an extension of the building wall; and

(c) The relief requested would result in a roof structure that is visually less intrusive;

The design would include an iron fence that would not resemble an extension to the all brick addition proposed for the one-story addition. The fence would therefore have the appearance of reduced massing on the roof. Thus the relief requested would not result in a visually intrusive structure.

(d) Operating difficulties such as meeting D.C. Construction Code, Title 12 DCMR requirements for roof access and stairwell separation or elevator stack location to achieve reasonable efficiencies in lower floors; size of building lot; or other conditions relating to the building or surrounding area make full compliance unduly restrictive, prohibitively costly or unreasonable;

This is not applicable.

(e) Every effort has been made for the housing for mechanical equipment, stairway, and elevator penthouses to be in compliance with the required setbacks; and

This is not applicable.

(f) 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.

The light and air to adjacent buildings would not be unduly adversely affected as the addition and the deck would not affect any windows belonging to the neighbor to the east. There would be visibility from the deck into the rear yard of the residence to the east (2 Library Court) which could be mitigated to some extent through the provision of the required 1:1 setback, and it is recommended that the applicant provide a concurrence for the proposal from that property owner.

D. Subtitle E Chapter 5201 ADDITION TO A BUILDING OR ACCESSORY STRUCTURE

NEW TEXT: Rear Addition (E § 205.4):

A rear wall of an attached or semi-detached building may be constructed to extend farther than ten feet (10 ft.) beyond the farthest rear wall of any adjoining principal residential building on an adjoining property provided that the building permit application for such construction was filed before July 1, 2017, accepted as complete by the Department of Consumer and Regulatory Affairs, and not substantially changed after filing.

The applicant is proposing an addition which would extend slightly more than 10 feet (approximately 11 feet) beyond that of the adjacent house, so relief has been requested. Special exception approval of this relief is permitted, subject to the criteria of E §§ 5201.3 – 5201.6.

5201.3 An applicant for special exception under this section shall demonstrate that the proposed addition or accessory structure shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:

(a) The light and air available to neighboring properties shall not be unduly affected;

The one-story addition with the additional one foot of depth would not intrude upon the light and air to the only abutting neighbor to the east.

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

The privacy of use and enjoyment to neighboring property should not be unduly affected. While a deck is proposed above the one-story addition, it would be accessed through the home's bedroom for passive recreation and should not be a source of undue noise or other objectionable conditions that would adversely impact the use and enjoyment of the abutting neighbor's rear yard. An addition conforming to this provisions, one of 10 feet in depth, would leave a narrow one foot open space between the proposed addition and he existing structure to the south, which would be a potential maintenance nuisance.

(c) The addition or accessory structure, together with the original building, 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 proposed addition would not be out of character with the surrounding neighborhood as viewed from the side alley. The addition has been seen by staff at OP's Historic Preservation Office and it would not require a hearing before the HP Review Board. (Exhibit 11) and has received a recommendation of approval form the Architect of the Capitol (Exhibit 38).

(d) In demonstrating compliance with paragraphs (a), (b), and (c) of this subsection, the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the proposed addition or accessory structure to adjacent buildings and views from public ways; and

The applicant submitted the required plans and photos.

(e) The Board of Zoning Adjustment may approve lot occupancy of all new and existing structures on the lot up to a maximum of seventy percent (70%).

This is not applicable in this case since the lot is an alley lot where the maximum permitted lot occupancy for an alley lot less than 1,800 sf does not apply ([E § 5103.1](#))

5201.4 The Board of Zoning Adjustment may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent and nearby properties.

OP does not propose any additional treatment or design.

5201.5 This section may not be used to permit the introduction or expansion of a nonconforming use as a special exception.

The existing use as a residential home is permitted in the RF-3 District and would not change.

5201.6 This section shall not be used to permit the introduction or expansion of nonconforming height or number of stories as a special exception.

The project proposes only a single story addition no higher than the existing first floor of the home.

V. COMMENTS OF OTHER DISTRICT AGENCIES

The District Department of Transportation (DDOT) posted its report to the record of no objection to the requested variances and special exception noted in Exhibit 34.

VI. COMMUNITY COMMENTS

The Applicant provided letters in support from a neighbor at #3 Library Court SE (Exhibit 31) and other neighbors shown as Exhibit 36 and 37.

ANC 6B submitted its recommendation of approval to the record dated April 14, 2017 (Exhibit 32, 33).

The Architect of the Capitol has provided a letter noting no objection to the proposal (Exhibit 38).