

**MEMORANDUM**

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

**FROM:** Stephen Cochran, Case Manager  
*JLS for*  
Joel Lawson, Associate Director Development Review

**DATE:** September 22, 2017

**SUBJECT:** BZA #19560 – 1739 Harvard Street, NW – Special Exception from Subtitle D § 205.4, to construct a rear addition to an existing single family residence

**I. RECOMMENDATION**

The Office of Planning (OP) **cannot yet make a recommendation** on the following requests for a special exception under Subtitle X § 901.2 from Subtitle E, § 205.4, pursuant to Subtitle E § 1205.4 and Subtitle D §5201 to enable the construction of a rear addition that will extend more than ten feet beyond the farthest rear wall of the principal residential buildings to the east and west of the applicant’s property.

- E § 205.4: (Permitted: addition extending up to 10 feet beyond the farthest rear wall of any principal residential building on any adjoining property; Proposed: addition extending a maximum of 14 ft. beyond the rear wall of the east-adjacent residence and 12 feet beyond the rear wall of the west-adjacent residence – i.e., a maximum of four feet on the main floor and two feet on the upper floor more than what is permitted by-right).

OP has asked the applicant to provide shadow studies to assess conformance with the criteria in Subtitle D, § 5201.3 (a) and (b).

**II. LOCATION AND SITE DESCRIPTION**

<b>Address</b>	1739 Harvard St. NW	<b>Legal Description</b>	Square 2588, Lot 160
<b>Zoning</b>	RF-1 (Predominantly one or two-unit attached row houses on small lots)		
<b>Ward, ANC</b>	1, 1D	<b>Historic District</b>	Mount Pleasant, contributing structure
<b>Lot Character and Existing Development</b>	1925 SF rectangular interior lot – non-conforming for width (15’) that has a rear alley and that slopes upward from front (south) to back (north). It is improved with a rowhouse that is 3 stories in the front and 2 stories in the back. There is a rear alley and parking space.		
<b>Adjacent Properties</b>	The property is part of a row of simultaneously constructed nearly identical modernist brick rowhouses with staggered front and rear facades. The rowhouse to the east is aligned with the applicant’s. The rowhouse to the west is set-back approximately 4 feet in the front and extends approximately 2 feet beyond the rear wall of the applicant’s.		

	Neither adjacent property has a rear addition, although nine other houses in the row have constructed one-story additions and two have constructed two-story additions.
<b>Neighborhood Character</b>	The north side of Harvard Street is the southern boundary of the Mount Pleasant neighborhood and historic district. Most of the neighborhood is zoned RF-1, for rowhouses and flats, with some older apartment buildings interspersed. On the south side of Harvard Street, 4 to 7 story apartment buildings in the RA-2 zone are clustered to the north of rowhouses in the RF-1 zone.

### III. PROJECT DESCRIPTION IN BRIEF

The applicant has a rowhouse that, due to grade changes, is three stories in the front and two stories at the rear. The first story is completely above-ground in the front and completely below-grade in the back. The applicant proposes to construct a two-story rear addition, that would add 14 feet to the 2<sup>nd</sup> floor, to enable the existing kitchen, the dining room and a relocated living room to be on the same floor, and 12 feet to the 3<sup>rd</sup> floor, to enable construction of a new bedroom.

The addition would be 14 feet deep on the 2<sup>nd</sup> floor and 12 feet deep on the 3<sup>rd</sup> floor, extending those same depths past the rear wall of the house to the east and 12 and 10 feet past, respectively, the 2<sup>nd</sup> and third floors of the house to the west. With respect to the residence to the east, this would be a difference from by-right permissions of four feet on the second (main) floor and two feet on the third (upper) floor. The distances would be two feet less than this on each floor for the house to the west, which extends farther back than the house to the east of the applicant's..

There would be no windows on either side wall of the addition. The rear wall would be glazed.

### IV. ZONING REQUIREMENTS AND ANALYSIS

Item	Regulation	Existing	Required / Permitted	Proposed	Relief
<b>Lot Area &amp; Width</b>	E-201.1	1,925 sf 15 ft.	1800 sf min. 18 ft. min.	Same Same	Existing non-conformity
<b>Lot Occ.</b>	304.1	23%	60 % max attached.	34.4%	conforming.
<b>Front Setback</b>	E-305.1	in line with row	In line with row	Same	Conforming
<b>Height</b>	E-303.1	33 ft. 3 stories	35 ft., 3 stories max.	Same	Conforming
<b>Parking</b>	701.5	1	1/principal du with alley	1	Conforming
<b>Rear Yard</b>	E-306.1	52.9 ft.	20 ft.	37.9 ft.	Conforming

<b>Rear Additions</b>	<b>E-205.4</b>	<b>0</b>	<b>10 ft.</b>	<b>14 ft. (on 2<sup>nd</sup> fl., as considered from front); 12 ft. (on 3<sup>rd</sup> fl., as considered from front)</b>	<b>Spec. Excep. Requested</b>
<b>Side Yard</b>	1207.4	n/a	Not required. If provided, 5'	None provided	Conforming
<b>Pervious Surface</b>	E-204.1	Not provided	10%	Not provided	<b>tbd</b>

The applicant has requested relief from the dimensional limitations of Subtitle E, § 205.4 to build an addition that extends more than 10 feet past the rear wall of adjacent properties. This distance is measured from the rear wall of enclosed, conditioned space on the adjacent properties at 1737 and 1741 Harvard Street. NW to the rear wall of the proposed enclosed, conditioned space on the proposed addition, and does not include exterior decks or balconies. Subtitle E § 205.5 enables the Board to grant the requested relief as a special exception.

205.4 *Notwithstanding §§ 205.1 through 205.3, a rear wall of an attached or semi-detached building shall not be constructed to extend farther than ten feet (10 ft.) beyond the farthest rear wall of any principal residential building on any adjoining property.*

205.5 *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 principal residential building on any adjoining property **if approved as a special exception** pursuant to Subtitle X, Chapter 9 and as evaluated against the criteria of Subtitle E §§ 5201.3 through 5201.6.*

Relief is needed for the proposed addition. The criteria for determining whether relief is appropriate are included in Subtitle D, §§ 5201.2 – 5201.6, which are listed below, with emphasis in bold added by OP:

5201.1 *The Board of Zoning Adjustment may approve as a special exception in the R zones relief from the following development standards of this subtitle, subject to the provisions of this section and the general special exception criteria at Subtitle X, Chapter 9:*

- (a) Lot occupancy;*
- (b) Yards;***
- (c) Courts;*
- (d) Minimum lot dimensions;*
- (e) Pervious surface; and*
- (f) The limitations on enlargements or additions to nonconforming structures as set forth in Subtitle C § 202.2.*

The “10-foot rule” is a subset of the regulations governing rear yards.

5201.2 *Special exception relief under this section is applicable only to the following:*

- (a) An addition to a residential building;***
- (b) A new or enlarged accessory structure that is accessory to such a building; or*

*(c) A reduction in the minimum setback requirements of an alley lot.*

The site has an existing single-family residential building that would be expanded physically, but there would be no increase in the number of units.

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 addition would extend four-feet beyond by-right limits on the second floor, which is at ground level for the houses on the north side of the 1700 block of Harvard Street, and would extend two-feet beyond the by-right limits on the third floor, which is one story above the level of the ground at the rear of the applicant's house and adjacent houses. The air available to neighboring properties is not likely to have an undue effect on neighboring properties.

With respect to light, the addition would be on the north side of the building. The applicant proposes to make the upper story of the addition two-feet shorter than the lower portion to lessen possible impacts. Given Washington, D.C.'s latitude, the rear walls of adjacent buildings receive direct light only during a portion of the summer. It does not seem likely that the additional four feet on one level and two feet on the other level would have an undue impact on the light available to the interior of neighboring properties or to the northern portions of the gardens in the rear of the neighboring properties. However, absent a shadow study it is difficult to assess whether the additional two to four feet beyond the depth permitted a by-right addition would have an undue impact on the light available to the portion of neighboring rear yards closest to the rear walls of those neighboring houses.

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

The privacy of nearby properties should not be unduly impacted. There would be no windows on either side of the proposed addition. The extension of the rear wall of the applicant's property would increase the privacy available to the first 12 to 14 feet of the neighboring properties' rear yards. Although the third-floor addition would be set-back from the second-floor addition, there would be no terrace atop the second floor. Because there would be no significant increase in the percentage of fenestration in the rear wall, the privacy available to the remaining portions of the adjacent rear yards should not be unduly compromised.

Without a shadow study, it is difficult to assess whether the special exception portion of the proposed addition would be likely to unduly compromise the enjoyment of neighboring properties. Aerial photographs and a site visit indicate that there are patio chairs and tables in most of the nearby rear yards. As with assessing impacts on light, it is difficult to assess fully whether the extra depth or the proposed addition would unduly compromise enjoyment of use in neighboring properties' back yards.

*(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 addition would not be visible from Harvard Street or Hobart Street, but would be visible from the alley at the rear. There are already one-story rear additions at 1709, 1711, 1715, 1727, 1735 1745, 1747, 1749 and 1761 Harvard Street, and two-story rear additions at 1725 and 1757 Harvard Street. These additions range from approximately five feet to approximately 16 feet in depth. The applicant's proposed addition would not likely present a substantial visual intrusion upon the character, scale or pattern of the existing houses. The building is a contributing structure to the Mount Pleasant Historic District. If the rear addition is approved by the Board, the design will need to be reviewed by the Historic Preservation Review Board (HPRB). It is possible that HPRB-required changes would require the applicant to return to the BZA for a modification of the BZA Order.

*(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 has provided graphical representations that, in combination with other orthophotography and street-view photographs are sufficient to demonstrate compliance with the criteria in paragraph (c) and portions of the criteria in paragraphs (a) and (b). However, OP has asked the applicant to provide a shadow study to help determine whether the proposal meets the criteria in paragraph (a) relating to light in paragraph (b) relating to enjoyment of use.

*(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%).*

The lot occupancy would be 34.4%.

*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 recommend that the Board include any conditions with an Order of Approval.

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

The existing and proposed single family residential use is a conforming use in the RF-1 zone.

*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 proposed height and number of stories of the building would be conforming.

## **V. DISTRICT AGENCY COMMENTS**

The building is a contributing structure to the Mount Pleasant Historic District. The project has not yet been reviewed by the Historic Preservation Office or the Review Board.

There were no District agency comments on file at the time OP completed its report.

## VI. COMMUNITY COMMENTS

ANC 1D had not commented at the time OP completed its report. There was a petition opposing the application from multiple property owners in the 1700 block of Harvard Street, N.W, as well as requests for party status in opposition.

## VII. LOCATION AND ZONING MAP

A location and zoning map is follows.

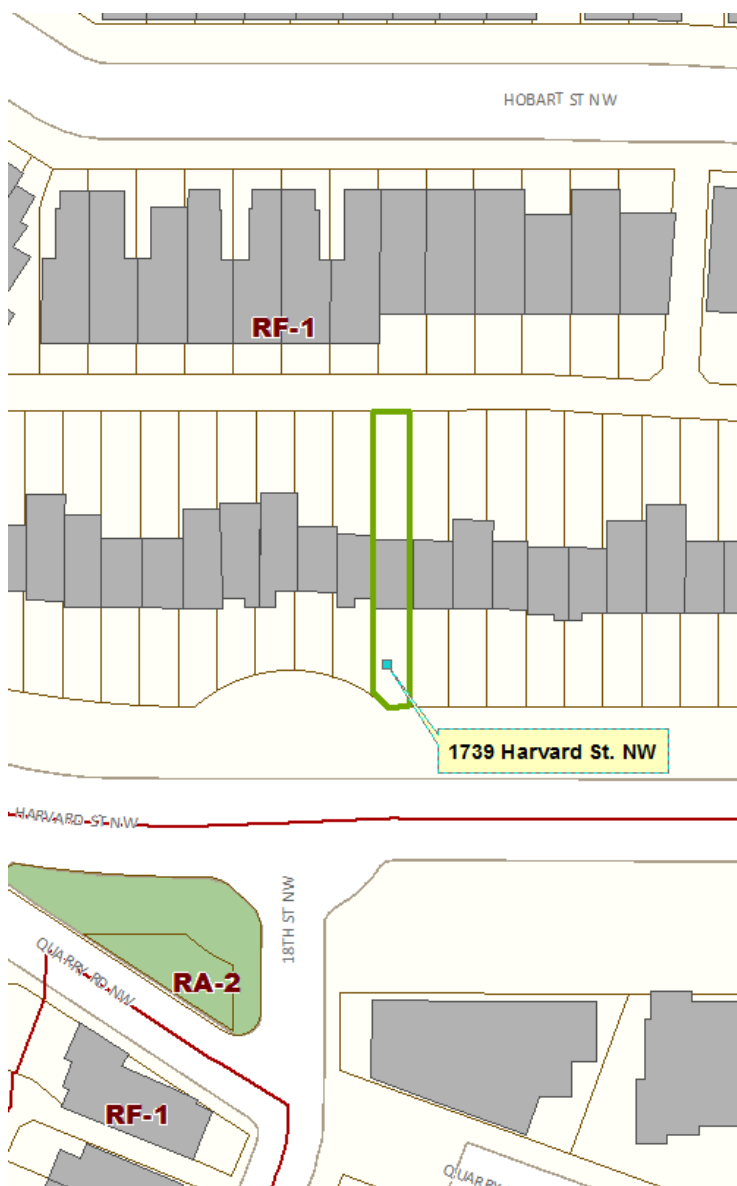


Figure 1. Location and Zoning Map