

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Matt Jesick, Case Manager
JL Joel Lawson, Associate Director for Development Review

DATE: February 9, 2018

SUBJECT: BZA #19683 – 260 Lincoln Court, SE – Request for relief in order to create new alley record lot and construct a new single family dwelling on the alley lot

I. RECOMMENDATION

The Office of Planning (OP) recommends **denial** of the following requested variances:

- C § 303.3(a) – Public Alley Width at the Lot for a new Alley Record Lot – 24’ req. 20’ existing; *variance*
- C § 303.3(a) – Public or Private Alley Access to a Street for a new Alley Record Lot – 24’ req. 20’ existing; *variance*
- C § 303.3(b) & E § 201 – Lot Area for a new Alley Record Lot (1,800 square feet required, 1,120 square feet existing). *variance*

Should the Board consider approval of the above variances, OP has no objection to the following requested special exception relief:

- E § 5104 Rear Yard (north) (5’ required, 0’ proposed); *special exception pursuant to E § 5108.*

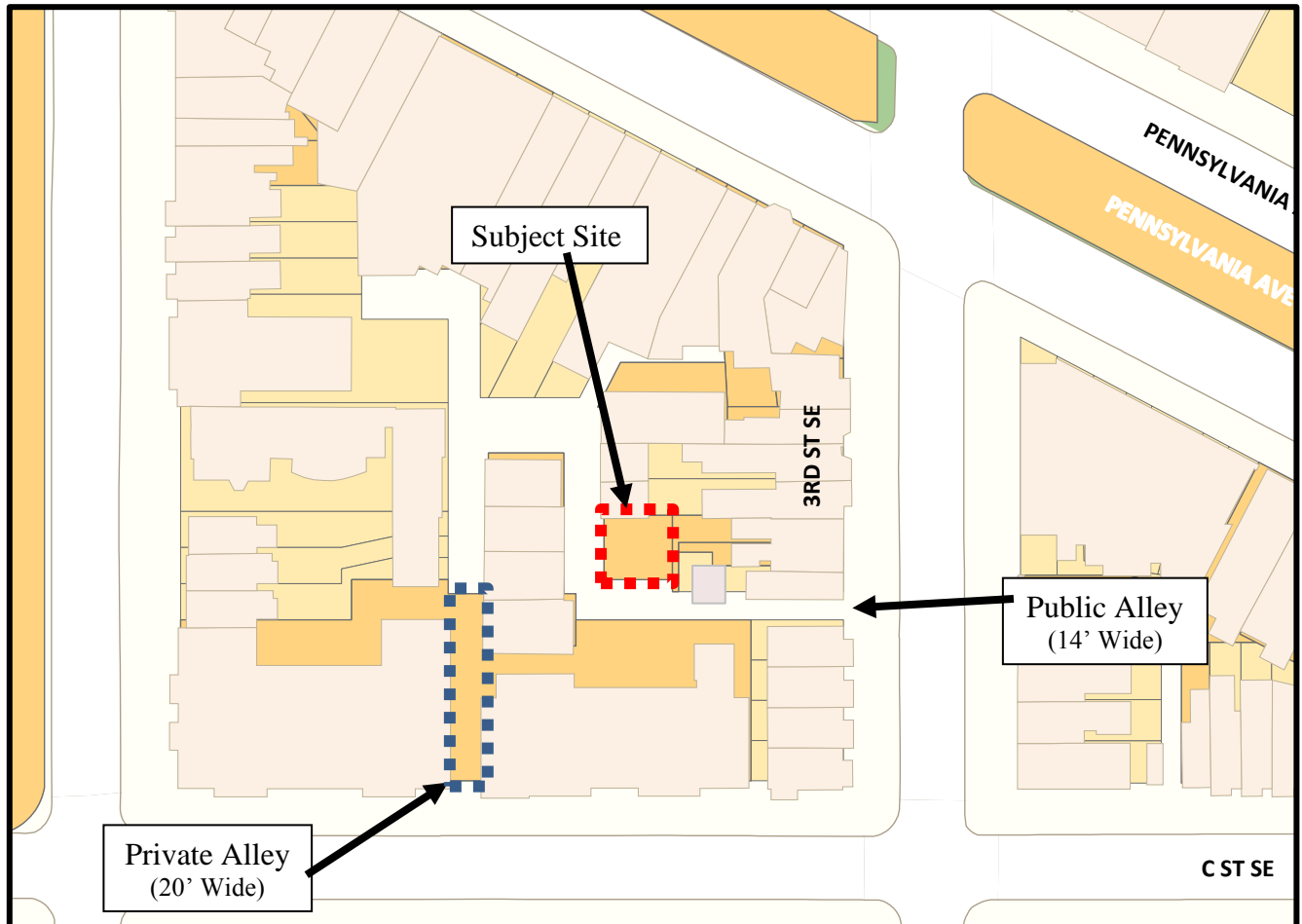
The applicant has also requested Alley Centerline Setback relief as a special exception. However, in the past, this area of relief has been exclusively a variance. OP has reviewed the relief against the variance criteria, and, should the Board consider approval of the above variances, OP has no objection to the following alley setback relief:

- E § 5106 Alley Centerline Setback (south and west) (12’ required, 10’ proposed). *variance*

II. LOCATION AND SITE DESCRIPTION

Applicant	Brian and Carolyn Wise, property owners
Address	260 Lincoln Court, SE
Legal Description	Square 762, Lot 828
Ward / ANC	6, 6B

Zone	RF-3, Moderate Density Single Family Rowhouses and Flats in proximity to the Capitol
Historic District or Resource	Capitol Hill Historic District
Lot Characteristics and Existing Development	Vacant lot, currently paved and used for parking. The public alley is 20' wide at the property, but narrows to 14' as it exits to 3 rd Street; The public portion of the alley terminates west of the property, but a 20'-wide private portion of the alley continues and exits at C Street.
Adjacent Properties	Rowhouses to the east; Carriage house immediately to the north; Garage to the east, across a 3-foot-wide dogleg extending to the alley from the rowhouse lots. Other garage structures to the west across the alley. Multi-story hotel to the south.
Surrounding Neighborhood Character	Mix of rowhouses, commercial uses and institutional uses.
Proposed Development	Construct a 2-story single family dwelling on an existing alley tax lot.



III. ZONING REQUIREMENTS AND RELIEF REQUESTED

Although a single-family dwelling is permitted on an alley record lot as a matter-of-right, subject to conditions, in order to construct a dwelling on the subject property, the applicant must first convert the tax lot into a record lot. The creation of record lots are subject to the alley width and lot area requirements of C § 303.3(a) and (b) and E § 201, from which the applicant requests variances. In order to construct as proposed, the applicant also requests relief from rear yard and alley centerline setback requirements.

RF-3 Zone	Regulation	Existing	Proposed	Relief
Lot Width E § 201	18'	32' 11"	No change	Conforming
Lot Depth	n/a	34'	No change	Conforming
Lot Area C § 303.3(b) & E § 201	1,800 sf	1,120 sf	No change	Requested - Variance
Alley Width C § 303.3(a)	24' – frontage 24' – access to street	20' – frontage 20' – access to street	No change	Requested - Variance
Height E § 5102	20', 2 stories	n/a	20', 2 stories	Conforming
Lot Occupancy E § 5103	For lots less than 1,800 sf, no limit	n/a	87.3%	Conforming
Rear Yard E § 5104	5 feet from any lot line of all abutting non-alley lots	n/a	0' on north side	Requested – Special Exception
Side Yard E § 5105	5 feet from any lot line of all abutting non-alley lots	n/a	5' on east side	Conforming
Alley Centerline Setback E § 5106	12'	n/a	10' on west and south sides	Special Exception Requested ¹

The applicant has advised OP that the proposal would conform to the pervious surface requirement of Subtitle E § 5107.1; this should be confirmed on the record by the applicant at or prior to the public hearing.

¹ The applicant's Self Certification form (Exhibit 13) and Burden of Proof (Exhibit 14) request Alley Centerline Setback relief as a special exception. E § 5108 states that "Exceptions to the development standards of this chapter shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, *and subject to the provisions and limitations of Subtitle E § 5204*" [emphasis added]. E § 5204 states that "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 ... pursuant to Subtitle X, Chapter 9" [emphasis added]. In the past, requests for relief from this provision have been by variance.

IV. ANALYSIS

SUBTITLE X § 1000 VARIANCE CRITERIA - ALLEY WIDTH AND LOT AREA

(a) *Exceptional Situation Resulting in a Practical Difficulty*

The applicant's written statement (Exhibit 14) states that there is no opportunity for the lot to increase in area, and no way to widen the alley. These situations, however, are not unique or exceptional; many alley lots throughout the city are in the same circumstance. The statement also says that if variance relief is not granted, it would be a practical difficulty to the owners "by not being able to propose an alley lot structure by right and would do harm to the overall value of the property" (Exhibit 14, p. 1 and again on p. 2). However, beyond that statement, the application does not demonstrate how adherence to the Regulations would be a practical difficulty to the applicant. The current use as surface parking could continue.

(b) *No Substantial Detriment to the Public Good*

Granting variances to alley width and lot area should not have a detrimental impact to the public good provided that FEMS states that they can adequately service the alley dwelling. Also, a building on a smaller lot would mimic, in form, the scale of other existing alley-facing buildings.

Should the Board consider approval of the application, OP recommends a condition of approval that the applicant obtain, prior to issuance of a building permit, a written statement from FEMS that they could adequately service the alley dwelling.

(c) *No Substantial Harm to the Zoning Regulations*

With regards to lot area, granting relief to allow the creation of a substandard record lot would be contrary to the intent of the zoning regulations which are intended to ensure the regulation of lot sizes and promote orderly development of the city. In the recently adopted zoning regulations, the intent was to allow future development of **existing** alley record lots even if they were substandard, but to limit the creation of new non-conforming record lots. As such, the regulations require that any new record lot (including new alley lots) meet the requirements for lot size, among other standards (Subtitle C § 302.1).

With regards to alley access width, the Regulations intend to provide adequate access for emergency services, such as FEMS, and utilities. If FEMS states that the alley provides adequate access, the required variance to alley width should not harm that particular intent of the Regulations. It would be incumbent on the applicant to provide the dwelling with utility access. .

SUBTITLE X § 901 SPECIAL EXCEPTION CRITERIA - REAR YARD

- (a) *[The special exception] Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;*

The applicant has applied for a special exception in order to construct up to the north property line abutting the adjacent garage. The proposed building design would be in harmony with the intent of the Regulations to provide for building massing that provides light and air to the subject property and adjacent properties, consistent with the character of the neighborhood. Most of the other alley-facing buildings are built to their property lines and abut other alley buildings, creating a consistent alley wall. The proposed design would also not be inconsistent with the intent of the Zoning Regulations to promote orderly development of neighborhoods; In this location that means development consistent with the historic pattern of alley construction.

- (b) *[The special exception] Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps;*

The proposed massing of development and the requisite special exception should not adversely affect the use of neighboring properties. The alley is bordered by dense development on all sides, including commercial uses and a five and six story hotel. The alley itself is developed with a number of alley buildings and accessory buildings, most built to the perimeter of their lots. Granting the special exception for the rear yard on the north should not add significantly to shadow or air impacts beyond what a matter of right development would produce.

SUBTITLE X § 1000 VARIANCE CRITERIA - ALLEY CENTERLINE SETBACK

- (a) *Exceptional Situation Resulting in a Practical Difficulty*

The subject property exhibits the exceptional condition that it appears to be one of the few, if not the only, remaining vacant alley lot or vacant rear yard confronting the subject alley. Furthermore, all of the existing alley-facing structures were built to the alley lot line. Should the subject property be developed, it would be a practical difficulty to the applicant to build a building with full alley centerline setbacks of 12 feet, out of character with the historic buildings nearby. That additional setback would visually make the subject building stand out from its neighbors in a way that alley stables or garages would not typically have done.

- (b) *No Substantial Detriment to the Public Good*

Granting a variance to the alley centerline setback should not have a detrimental impact to the public good provided that FEMS states that they can adequately service the alley dwelling. Also, building to the alley lot lines would benefit the public by reinforcing, and not deviating from, the historic pattern of development on the alley.

Should the Board consider approval of the application, OP recommends a condition of approval that the applicant obtain, prior to issuance of a building permit, a written statement from FEMS that they could adequately service the alley dwelling.

(c) No Substantial Harm to the Zoning Regulations

These design choices were in part driven by historic preservation principles that suggest that alley buildings were traditionally built to the property lines along the alley. These concepts would not be inconsistent with the intent of the Zoning Regulations, which seek to promote orderly development of neighborhoods; In this location that means development consistent with the historic pattern of alley construction. The Historic Preservation Review Board (HPRB) and its staff, in their conceptual review, emphasized that building to the alley lot line would be consistent with the historic character.

V. COMMENTS OF OTHER DISTRICT AGENCIES

The District Department of Transportation (DDOT) has submitted a report at Exhibit 38 noting no objection to the proposal.

VI. COMMUNITY COMMENTS

As of this writing the record contains a preliminary report with no recommendation from the ANC at Exhibit 37, but no other comments from the community. The applicant has informed OP that they are scheduled to present to the full ANC on February 13.