

**MEMORANDUM**

**TO:** District of Columbia Board of Zoning Adjustment  
**FROM:** Brandice Elliott, Case Manager  
*JL* Joel Lawson, Associate Director Development Review  
**DATE:** March 2, 2018

**SUBJECT:** BZA Case 19698: Request for special exception relief pursuant to Subtitle D § 5201.1 from D § 1206 (rear yard) and C § 202 (additions to nonconforming structures), to allow a second story bay projection.

**I. OFFICE OF PLANNING RECOMMENDATION**

The Office of Planning (OP) recommends **approval** of the following area special exception pursuant to Subtitle D § 5201:

- C § 202.2, Additions to Nonconforming Structures
- D § 1206.2, Rear Yard (20 feet required, 4 feet existing; 18.5 feet proposed for second floor addition)

**II. LOCATION AND SITE DESCRIPTION**

Address	1959 39 <sup>th</sup> Street, N.W.
Applicants	Matthew Ossolinski for Richard Hall
Legal Description	Square 1310, Lot 77
Ward, ANC	Ward 2, ANC 2E
Zone	<b><u>R-20</u></b> is intended to retain and reinforce the unique mix of housing types including detached, semi-detached and attached dwellings and permit attached row houses on small lots, and includes areas where attached houses are mingled with detached houses and semi-detached houses.
Historic District	None
Lot Characteristics	The rectangular lot is 1,265 square feet in area, and has 15.96 feet of frontage along 39 <sup>th</sup> Street. The rear of the lot backs to a 16-foot-wide public alley that ends in a cul-de-sac.
Existing Development	The subject lot is currently developed with a 23-foot high two story attached dwelling.
Adjacent Properties	To the north and south are existing, similarly sized attached dwellings. To the east, across 39 <sup>th</sup> Street, are existing attached dwellings on slightly larger lots. To the west, across the public alley, are vacant lots that appear to be used for parking or small structures.



Surrounding Neighborhood Character	The surrounding neighborhood character is moderate density residential, consisting predominantly of attached and detached dwellings.
Proposed Development	The applicant proposes to construct a second story addition with bay window on the rear elevation that would be identical to an existing bay window on the first floor. The addition would measure 8.2 feet in depth, 14.7 feet in width, and create two narrow courts on either side of the addition. The dwelling is currently nonconforming in terms of rear yard and lot occupancy, resulting in the need for relief for enlarging a nonconforming structure. A rear deck, providing a rear yard of four-feet, was approved by a separate special exception request in 2017 (reference BZA Order 19533); however, additional rear yard relief is required for the proposed second story and bay window addition.

**III. ZONING REQUIREMENTS and RELIEF REQUESTED**

R-20 Zone	Regulation	Existing	Proposed	Relief
Lot Width (ft.) D § 1202	20 ft. min.	15.96 ft.	No change	Existing nonconforming
Lot Area (sq. ft.) D § 1202	2,000 sq.ft. min.	1,265 sq.ft.	No change	Existing nonconforming
Height D (ft.) § 1203	35 ft. max.	23 ft.	No change	None required
Lot Occupancy D § 1204	60% max.	60.86%	No change	None requested
Front Setback (ft.) D § 1205	Within range of existing front setbacks	Not provided	No change	None required
Rear Yard (ft.) D § 1206	20 ft. min.	13 ft. (second floor)	11.5 ft. (second floor)	<b>Requested</b>
Side Yard (ft.) D § 1207	Not required	0 ft.	No change	None required
Pervious Surface D § 1208	20%	Not provided	Not change	None required

**IV. OP ANALYSIS**

**Subtitle D Chapter 5201 ADDITION TO A BUILDING OR ACCESSORY STRUCTURE**

*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 requested relief for rear yard and addition to a nonconforming structure are consistent with this section.

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

- (a) An addition to a building with only one (1) principal dwelling unit; or*
- (b) A new or enlarged accessory structure that is accessory to such a building.*

The applicant has requested special exception relief for a proposed addition to a building with only one principal dwelling unit, consistent with this section.

*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 proposed bay window would be located immediately above an existing bay window on the first floor, and would mirror it in width and depth. The dwelling to the north has a rear addition that extends beyond the rear wall of the subject dwelling. The dwelling to the south has the same rear wall as the subject property, but also includes a deck at both the first and second story that extends beyond the rear wall of the subject dwelling. Given that existing development on both sides of the subject dwelling extends into the rear yard further than the proposed second story bay window, the light and air available to neighboring properties should not be unduly affected.

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

The proposed bay window would be approximately 11 square feet of area and only 1.5 feet of depth. The feature would be fully enclosed, and provide design interest to the rear elevation of the dwelling. Given the size of the bay window and its intended interior use as part of the master bedroom addition, the addition should not compromise the privacy of use and enjoyment of neighboring properties. Letters of support from the neighbors that would be most impacted by the bay window have been provided to the record (Exhibits 30 and 31).

- (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 bay window would not be visible from 39<sup>th</sup> Street, as it would be located between a series of attached dwellings where no side yard has been provided. The bay window would be visible from the public alley to the east, but would not visually intrude upon the character, scale, and pattern of houses along the alley, since the character is varied due to multiple additions of varying styles.

*(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, including plans, photographs, and elevations sufficient to represent the relationship of the proposed addition to adjacent buildings and views from public ways.

*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 special treatment to the proposed addition in the way of design, screening, exterior or interior lighting, building materials, or other features.

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

The applicant would continue to use the dwelling as a residence, which is a permitted use in the Zoning Regulations.

*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 dwelling would be 23 feet in height with two stories, which is permitted in this zone.

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

As of the date of this writing, comments of other District Agencies had not been received.

## **VI. COMMUNITY COMMENTS**

At its regularly scheduled meeting on January 29, 2018, ANC 2E voted to recommend approval of the requested relief (Exhibit 37). Several letters of support from neighbors have been provided to the record (Exhibits 30, 31, 32, 34, and 35).

Attachment: Location Map

### Location Map

