

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Jonathan Kirschenbaum, Case Manager
JL Joel Lawson, Associate Director Development Review
DATE: June 8, 2018

SUBJECT: BZA Case 19753 – 2214 Douglas Street, NE to permit the construction of a two-story accessory dwelling unit in the rear of a single-family detached house.

I. OFFICE OF PLANNING RECOMMENDATION

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

- Accessory Building Height, Subtitle D § 5002.1, pursuant to Subtitle X § 1000.1 (20 feet maximum permitted; 26 feet proposed).

The Zoning Administrator referred this application to the Board of Zoning Adjustment (BZA), as a special exception request for height relief. However, in discussion with the Zoning Administrator, it was determined that the correct relief for this request is a variance. This is because Subtitle D § 5201.6 of the 2016 Zoning Regulations does not permit “the introduction or expansion of nonconforming height or number of stories as a special exception.”

The Office of Zoning (OZ) informed the applicant of the need to revise the special exception request to a variance request. OP also reached out to the applicant to discuss the variance relief test, and to suggest that they look at ways to reduce or eliminate the relief needed. At the time this report was drafted, the Department of Consumer and Regulatory Affairs (DCRA) had revised the referral letter to reflect the request as a variance, but the applicant had not yet revised the application materials to address the standards for a variance.

II. LOCATION AND SITE DESCRIPTION

Address	2214 Douglas Street, NE
Applicant	Brendan and Claire Smullen
Legal Description	Square 4254, Lot 35
Ward / ANC	5/5C
Zone	R-1-B
Lot Characteristics	Rectangular interior lot measuring 38 feet in width and 142 feet in depth. The lot is bounded by Douglas Street, NE to the south, a 16-foot improved public alley to the north, and adjoining lots to the east and west.
Existing Development	Two-story with basement single-family detached house.
Adjacent Properties	Two-story detached houses.

Surrounding Neighborhood Character	The surrounding neighborhood is comprised of primarily two-story detached houses.
Proposed Development	<p>The applicant proposes to construct a two-story accessory dwelling unit (ADU) containing one residential unit, in the rear of a single-family detached house (principal building). The total height would be 26 feet, and the total building area would be 341 square feet.</p> <p>The subject lot contains a deep backyard, and the ADU would be located a substantial distance away from the principal building. The ADU would also be set back four feet from the rear property line, and 12 feet from the centerline of the alley.</p> <p>The proposed layout contains a living space, efficiency kitchen, three-piece bathroom, and washer/dryer closet on the first floor. There is also a large storage closet only accessible from a side exterior entrance on the first floor. The second floor would be devoted to a loft space.</p> <p>Variance relief is required from the accessory building height requirement.</p>

III. ZONING REQUIREMENTS and RELIEF REQUESTED

R-1-B Zone	Regulation	Existing	Proposed ¹	Relief
Height (ft.) D § 5002.1	20 ft. max./2 stories	Not applicable	26 ft. max./2 stories	Relief requested: 6 ft.
Lot Width (ft.) D § 5003.1	Exempt	Exempt	Exempt	None required
Lot Area (sq. ft.) D § 302.1	5,000 sq. ft. min.	5,396 sq. ft.	5,396 sq. ft.	None required
Floor Area Ratio	Not applicable	Not applicable	Not applicable	None required
Maximum Building Area D § 5006.1	Greater of 30% of the required rear yard or 450 square feet	Not applicable	341 sq. ft. of building area	None required
Lot Occupancy D § 304.1	40% max.	25%	32%	None required
Rear Yard (ft.) D § 5004.1	12 ft. min. setback from centerline of alley	Not applicable	12 ft.	None required
Side Yard (ft.) D § 5005.1	Not applicable	Not applicable	Not applicable	None required
Parking C § 701.5	1 per 2 du for any R zone	1 parking space	1 parking space	None required

¹ Information provided by the Applicant. See Exhibit 4.

IV. OFFICE OF PLANNING ANALYSIS

Variance Relief from D § 5002.1, Height for Accessory Buildings:

i. Exceptional Situation Resulting in a Practical Difficulty

Accessory buildings containing residential uses are permitted as a matter-of-right in the R-1-B zone if they comply with the development standards in Subtitle D §§ 5002 - 5006. Pursuant to Subtitle D § 5002.1, the permitted height for an accessory building is 20 feet, and the total proposed height for the ADU is 26 feet. The applicant stated two reasons (Exhibit 9) for why height relief is requested:

1. *Given the amount of substantial water run-off that is seen in the neighborhood, a post foundation is preferred to a concrete slab. Given this change in the foundation, additional height would be required to allow enough space for the structure to be built; AND*
2. *Given the stated intent of the code to allow two-story dwellings, the code height restriction limits the design of structures that are two stories. Given financial limitations, we acquired a standard building design and utilized a local architect to conform as best able to code.*

The above arguments, individually or cumulatively, do not present an exceptional situation, and would not result in a practical difficulty in complying with the height requirement. The subject interior lot is regularly shaped, measuring 38 feet in width by 142 feet in depth, and is similar in size to all other lots on the square fronting Douglas Street, NE. The applicant states that there is substantial water run-off in the neighborhood. Such a condition, which exists on a neighborhood-wide level, does not appear to be a condition that is exceptional or extraordinarily unique to this piece of property. The applicant has not demonstrated how water run-off and topography work together to create a practical difficulty in fully or more closely complying with the height requirement of the zoning regulations. This information and data would then have to directly support the need to increase the height of the proposed ADU by six feet.

Further, the applicant implies that acquiring a standard building design has limited their ability to comply with the accessory building development standards. However, the inability to change a standard building design to comply with a zoning regulation is not by itself reason for a variance.

ii. No Substantial Detriment to the Public Good

While OP is supportive of the applicant's intent to add an accessory unit, the height relief request would result in a building that exceeds the maximum permitted height for accessory buildings by 30 percent, and would not be typical of other accessory structures located on the square. Therefore, the proposed height would be out of character with the surrounding neighborhood.

iii. No Substantial Harm to the Zoning Regulations

The general provisions for accessory building regulations under Subtitle D § 5000.3 state:

An accessory building shall be secondary in size compared to the principal building, and shall comply with all required yards for accessory buildings based on the zone in which they are located.

The height of the proposed ADU is similar in height to the principal building on the subject lot, and does not appear to be secondary in size to it. The increase in height over what is permitted would be contrary to the intent of the regulation to limit the height of accessory buildings.

V. COMMENTS OF OTHER DISTRICT AGENCIES

Comments from DDOT state that the proposed special exception will not have an adverse impact on the District's transportation network. DDOT has no objection to the approval of the requested special exception relief (Exhibit 31).

VI. COMMUNITY COMMENTS

No comments from the community or the ANC were received at the time this report was drafted.

Attachment 1: Location Map 2214 Douglas Street, NE

