

The Applicant is requesting relief from Subtitle E § 5004.2(a) and (b)—the relief is from the Rear Yard section of the Accessory Building Regs. There is a completely separate section on Height (20 feet) in those Regs, and that is not what the applicant is requesting relief from. This is a “yards” requirement.

In Case No. 19747, the Office of Planning report supported this analysis, in regard to subparagraph E § 5004.2(b) (100-foot GFA section). It would not make sense to say that subparagraph (b) can obtain special exception relief, but subparagraph (a) is a variance. They are both rear yard requirements. The Zoning Administrator also provided a memo to this effect for Case No. 19747 (See OP Report and Zoning Memo below).

In this case, the accessory garage is 13.8 ft. in height and has 356 sf. in gross floor area. Under the Height Section of the Accessory Building Regulations (E-5002), height is limited to 20 feet. There is no GFA limit under the Accessory Building Regulations. In the Rear Yard Section of the Accessory Building Regulations are additional requirements which provide conditions under which an Accessory Building is permitted in a required rear yard. Those two requirements relate to height (10 ft) and GFA (100 ft) (see below 5004.2) – however, they are completely within the Rear Yard section of the Accessory Building Regulations.

The new accessory structure at 1834 Ontario is within the required rear yard, and therefore subject to 5004.2 (a) and (b). The proposed garage exceeds both height and GFA limits under 5004.2. Because these two requirements are in the Rear Yard section of the Accessory Building Regulations, the Applicant is requesting special exception relief from E § 5004.2.

**5004 REAR YARD**

5004.1 No minimum rear yard is required for an accessory building in an RF zone except when abutting an alley, where it shall be set back at least twelve feet (12 ft.) from the center line of the alley.

5004.2 An accessory building shall be permitted in a required rear yard of a principal building pursuant to the following conditions:

- (a) The accessory building is less than ten feet (10 ft.) in height; and
- (b) The accessory building is less than one hundred square feet (100 sq. ft.) in gross floor area.

5004.3 If the required rear yard of the principal building in which the accessory building will be placed abuts an alley, the accessory building shall be set back at least twelve feet (12 ft.) from the center line of the alley.

Subtitle E § 5007 states that special exception relief from the development standards of Chapter 50 is permitted, subject to E-5201. Subtitle E § 5004 and E § 5007 are in the same chapter.

**5007 SPECIAL EXCEPTION**

5007.1 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 §§ 5201.

**5201 ADDITION TO A BUILDING OR ACCESSORY STRUCTURE**

5201.1 The Board of Zoning Adjustment may approve as a special exception in the RF 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.

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.

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The Applicant believes it is clear that Subtitle E-5004 pertains to REAR YARDS, as limitations on the height of an accessory structure is found in a different section E-5002:

**5002 HEIGHT**

5002.1 The maximum permitted height for an accessory building in an RF zone shall be twenty feet (20 ft.) and two (2) stories, including the penthouse.

Further, the building is within the permitted height limits for accessory structures in the RF-1 Zone, and if it were not in the required rear yard, would be permitted as a matter-of-right.

Effectively, what this means is that a request to go above 20 feet in height would be a height variance. A request between 10 and 20 is a special exception if the structure is in the required Rear Yard. If it's not in the required rear yard, then it's permitted as a matter of right if it is under 20 feet in height.

**MEMORANDUM**

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

**FROM:** Maxine Brown-Roberts, Project Manager  
*JL* Joel Lawson, Associate Director for Development Review

**DATE:** May 4, 2018

**SUBJECT:** BZA #19747 – 445 15<sup>th</sup> Street, SE – Request for Variance and Special Exception relief to permit an existing garage.

**I. RECOMMENDATION**

Deborah Van Buskirk, applicant, requests variance and special exception approval for a garage that was constructed without permits at 4465 15<sup>th</sup> Street, SE in the RF-1 zone. The Office of Planning (OP) recommendation is as follows:

**Denial - Variance pursuant to Subtitle X, § 1000.1**

- Subtitle E § 304.1, Lot occupancy, (60% allowed, 70% SE, 85% proposed)

If the Board finds that the applicant has provided adequate justification for the variance request, then OP recommends:

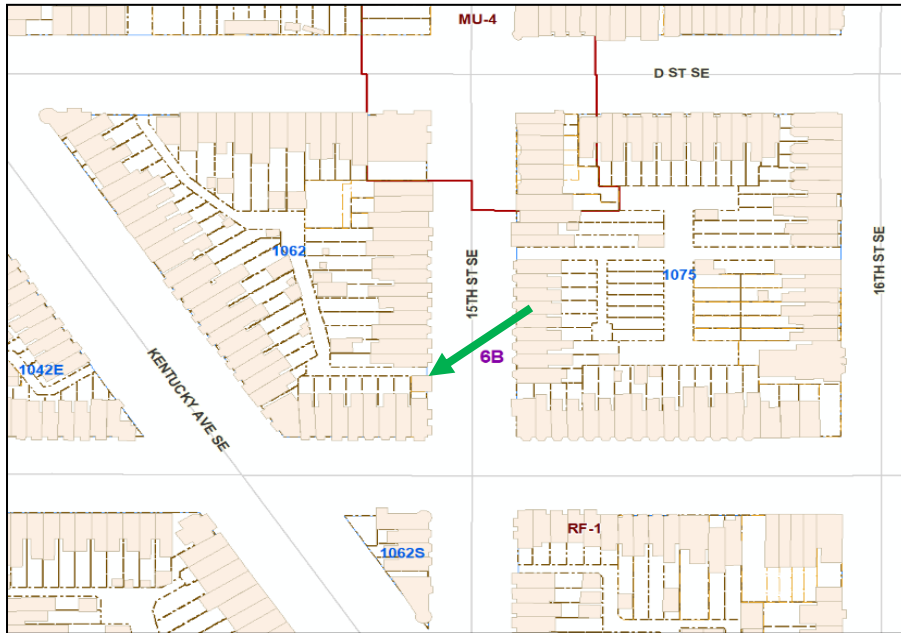
**Approval - Special Exception pursuant to Subtitle E, § 5007.1 and Subtitle E, § 5201.1**

- Subtitle E § 5004.1, Setback from alley centerline (12 ft. minimum required, 0 ft. proposed)
- Subtitle E § 5004.2(b), Accessory Building Area, (100 sq. ft. maximum allowed, 256 sq. ft. proposed)

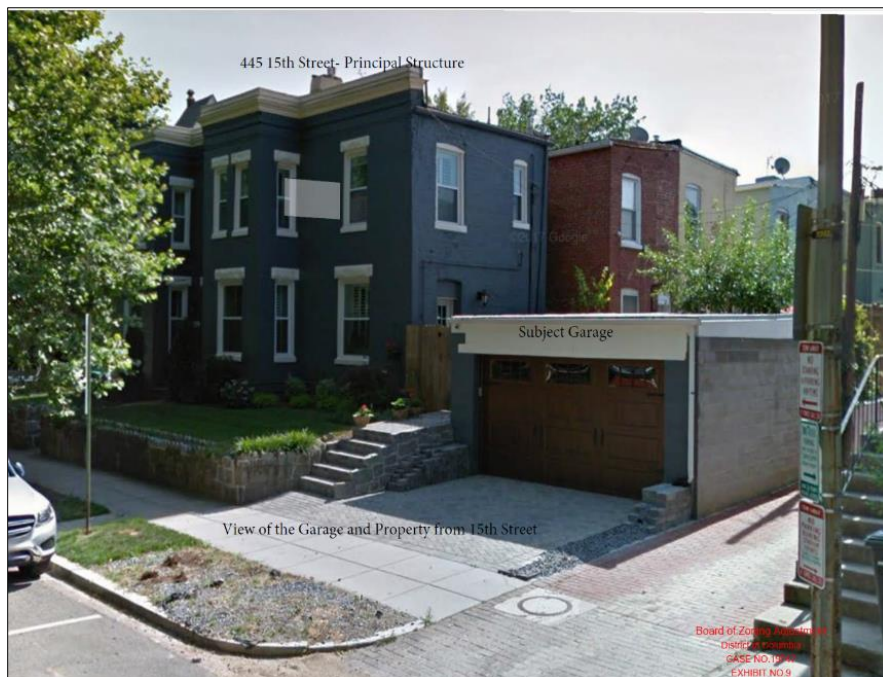
**II. LOCATION AND SITE DESCRIPTION**

Address	445 15 <sup>th</sup> Street, NW
Legal Description	Square 1062, Lot 52
Ward / ANC	6, 6B
Zone	RF-1
Historic District or Resource	None
Lot Characteristics	A 1,120-square lot at the intersection of 15 <sup>th</sup> and E Street, SE, which abuts a 8-foot wide alley.

Existing Development	Two-story, one-family house with a garage that currently does not have a curb cut to access the garage
Adjacent Properties and Neighborhood Character	The adjacent properties and the surrounding neighborhood are predominantly two-story rowhouses.
Proposal	Permit a garage (accessory structure) that is already constructed and does not meet the lot occupancy, area of the accessory building or alley centerline setback requirements.



Site Location



Proposed Garage

Zoning Requirements and Relief Requested:

<b>RF-1 Zone</b>	<b>Regulation</b>	<b>Existing*</b>	<b>Proposed*</b>	<b>Relief</b>
Lot Width E § 201.1	18 ft.	16 ft.	No change	Conforming
Lot Area E § 201.1	1,800 sf.	1,120 sf.	No change	Conforming
Height of Accessory Bldg. E § 5004.2(a)	10 ft. 1 story	10 ft. 1-story	No change	Conforming
Lot Occupancy E § 304.1	60%	85%	No change	Variance
Rear Yard [Accessory Bldg.] E § 5004.3	12 ft. from alley centerline	0 ft. from alley centerline	No change	Special Exception
Maximum Area for Accessory Bldg. E § 5004.2(b)	100 sf.	256 sf.	No change	Special Exception

\* Information provided by Applicant.

### III. ANALYSIS

#### Variance

To be granted a variance, the applicant must demonstrate that the application meets the three-part test of Subtitle X § 1000.1

**(a) *Exceptional Situation Resulting in an Exceptional Situation***

The applicant states that the exceptional situation is that they purchased the property without knowing that the garage was constructed without a permit. However, they have not provided any information or demonstrated how the property exhibits an exceptional situation resulting in a practical difficulty pertaining to the lot occupancy relief. The lot is rectangular, similar in size to other lots, and developed with a house similar in size to others in the square.

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

The garage fronts on 15<sup>th</sup> Street although there is no curb cut. The applicant has undergone review with DDOT’s Public Space and was granted conditional approval for a curb cut at the corner of 15<sup>th</sup> Street and the alley to access the garage provided the applicant can obtain a building permit for the garage (Attachment 1). The proposed garage would not substantially affect vehicular or pedestrian movements along the alley or impact the public good.

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

The lot occupancy regulations are intended to regulate the bulk and coverage of lots and the proposed lot occupancy significantly exceeds that allowed by special exception. The applicant has

not demonstrated how the standards for the variance relief are met and thereby not causing harm to the Zoning Regulations.

### **Special Exception**

#### **SUBTITLE, § 5007.1 - SPECIAL EXCEPTION**

*5007.1 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 §§ 5201.*

#### **SUBTITLE E § 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:*

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

The applicant seeks a special exception for alley centerline setback and for the size of the accessory structure in a rear yard.

*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 subject of the application is an accessory structure (a garage) to a single-family row dwelling.

*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 structure has a height of ten feet and would not cast any shadows on 15<sup>th</sup> Street. The shadows on the alley would be minimal and would not darken the alley and affect traffic or pedestrian movements. The garage would not negatively impact the house across the alley as it has no windows on the side adjacent to the alley.

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

The garage opening is along 15<sup>th</sup> Street. Along the alley, neither the garage nor the house across the alley have windows on facing facades and therefore the garage would not affect the privacy of the neighboring properties. The owner of that house has submitted a letter of support (Exhibit 32).

- (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 house with an accessory garage is similar to others in the square. Although the garage occupies a larger lot occupancy that allowed, it has a height of 10-feet which is shorter than the other buildings fronting on 15<sup>th</sup> Street and sits on the property line similar to other end units along the street, so does not intrude on the character, scale and pattern of houses along the street.

- (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 application includes plans and photographs to represent the existing shed and its surroundings.

- (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 addition of the garage increases the lot occupancy to 85%. The applicant has requested a variance from the requirement.

*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 recommends no special treatments.

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

The applicant does not propose a nonconforming use.

*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 height of the garage would be 10-feet and be conforming.

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

The Department of Transportation (DDOT) will submit a report under separate cover.

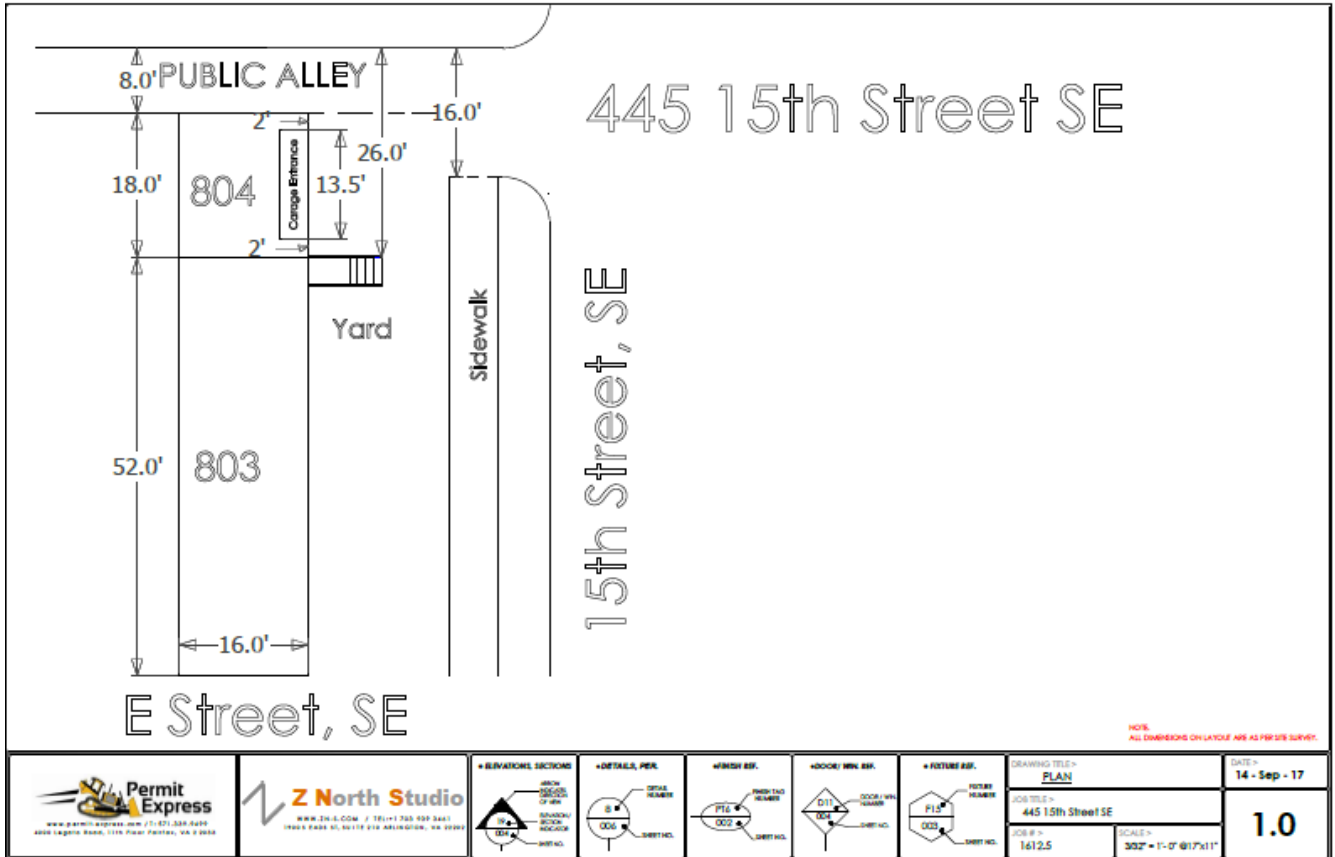
## **V. COMMUNITY COMMENTS**

The property is within ANC 6B. The applicant states that the ANC voted to support the requested relief at its meeting on April 10, 2018. At the time of this report, the ANC had not submitted its report. The record includes two letters of support for the proposal from adjacent neighbors (Exhibits 31 and 32), and a letter in opposition from the Capitol Hill Restoration Society (Exhibit 30).



ATTACHMENT 1

Proposed access to the Garage





**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS  
OFFICE OF THE ZONING ADMINISTRATOR**

February 16, 2018

**MEMORANDUM**

**TO:** Board of Zoning Adjustment

**FROM:** Matthew Le Grant *m22*  
Zoning Administrator

**THROUGH:** Daniel Calhoun  
Zoning Technician

**SUBJECT:** **Legalization of an Existing Un-permitted One-story Detached Garage (Accessory Building)**  
**Location:** 445 15<sup>th</sup> St. S.E.  
**Square:** 1062  
**Lot:** Record Lot: 0052  
**Zone:** RF-1  
**DCRA Building Permit #:** B1801650  
**DCRA BZA Case #:** FY-18-9-Z

Review of the plans for the subject property referenced above indicates that Board of Zoning Adjustment approval is required as follows:

1. Special exception pursuant to E, 5201.1 for:
  - a. An accessory building that exceeds the 100 square foot gross floor area limitation of E, 5004.2 (b). (X, 901.2)
2. Special exception pursuant to E, 5201.1 for an accessory building that does not comply with the 12 foot setback from the alley centerline, as required under E, 5004.1. (X, 901.2)
3. Area variance to exceed the maximum allowable lot occupancy under E, 304.1 with eighty-five (85) percent proposed. (X, 1001.2)

*Note: All applicants must provide the Office of the Zoning Administrator with submission verification, in the form of a formal receipt from the BZA, within 30 days of the date of this memo.*

**NOTES AND COMPUTATIONS**

Building Permit # **B1801650** Zone: **RF-1** N&C Cycle # **1**  
 DCRA BZA Case # **FY-16-91-Z** Existing Use: **Single Family Dwelling** Date of Review: **12/13/17**

Property Address: **445 15<sup>th</sup> St. SE** Proposed Use: **Single Family Dwelling** Reviewer: **Daniel Calhoun**  
**Square 1062, Lot: 803 & 804 (Record Lot):** w/ Detached Garage

0052

Item	Existing Conditions	Minimum Required	Maximum Allowed	Provided by Proposed Construction	Variance Deviation	Notes/Zoning Relief Required
Lot area (sq. ft.)	1120	1800	N/A	1120	0	N/A
Lot width (ft. to the tenth)	16	18	N/A	16	0	N/A
Building area (sq. ft.)	949	N/A	672	949	277	N/A
Lot occupancy (building area/lot area)	85%	N/A	60%	85%	25%	VARIANCE
Gross Floor Area (sq. ft.)	N/A	N/A	N/A	N/A	0	N/A
Floor area Ratio (FAR), Total (Floor area/lot area)	N/A	N/A	N/A	N/A	N/A	N/A
Floor area Ratio (FAR), Non-Residential (Non-Residential Floor area/lot area)	N/A	N/A	N/A	N/A	N/A	N/A
Principal Building Height (Stories)	N/A	N/A	N/A	N/A	N/A	N/A
Principal Building Height (ft. to the tenth)	N/A	N/A	N/A	N/A	N/A	N/A
Accessory Building Height (Stories)	1	0	2	1	N/A	N/A
Accessory Building Height (ft. to the tenth)	10	N/A	20	9.9	N/A	N/A
Front Yard (ft. to the tenth)	N/A	N/A	N/A	N/A	N/A	N/A
Rear Yard (ft. to the tenth)	0	20	N/A	0	N/A	N/A
Side Yard(s), facing building front on right side (ft. to the tenth)	N/A	N/A	N/A	N/A	N/A	N/A
Side Yard(s), facing building front on left side (ft. to the tenth)	N/A	N/A	N/A	N/A	N/A	N/A
Vehicle Parking Spaces (number)	0	1	N/A	1	0	N/A
Loading Berths, Platforms, and Spaces (number and size in ft.)	N/A	N/A	N/A	N/A	N/A	N/A
Pervious Surface (%)	NOT REQUIRED	N/A	N/A	N/A	N/A	N/A
Green Area Ratio (score)	N/A	N/A	N/A	N/A	N/A	N/A
Dwelling units, Principal (#)	1	N/A	2	1	N/A	N/A
Dwelling units, Accessory (#)	0	0	1	1	N/A	N/A
Setback from alley Center Line (ft. to the tenth)	0	12	N/A	0	12	SPECIAL EXCEPTION
Other:	** GARAGE in excess of 100 sqft. in rear yard **		100	256	156	SPECIAL EXCEPTION