

**MEMORANDUM**

**TO:** District of Columbia Board of Zoning Adjustment  
**FROM:** Stephen J. Mordfin, Case Manager  
*JL* Joel Lawson, Associate Director Development Review  
**DATE:** September 7, 2018  
**SUBJECT:** BZA Case 19804: request for special exception relief pursuant to Subtitle E § 5201.1 to allow the conversion of an existing pre-1958 building to apartments and to permit a rear addition to extend more than 10 feet from the rear walls of adjoining dwellings (U § 320.2(e)), as provided by (U § 320.2(l)).

**I. RECOMMENDATION**

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

- U § 320.2, Apartment Conversion of Existing Residential Building (1 unit per 900 square feet required, 1 unit per 2,726 square feet existing; 1 unit per 908.67 square feet proposed).

OP recommends **approval** of the following waiver:

- U § 320.2(e), to permit an addition to extend further than ten feet past the furthest rear wall of a principal residential building on an adjacent property.

**II. LOCATION AND SITE DESCRIPTION**

Address	716 Upshur Street, N.W.
Applicant	716 Upshur LLC
Legal Description	Square 3135, Lot 91
Ward, ANC	Ward 4, ANC 4C
Zone	RF-1
Lot Characteristics	Rectangular lot with rear alley access
Existing Development	One-family row dwelling
Adjacent Properties	One-family row dwellings
Surrounding Neighborhood Character	Moderate density residential
Proposed Development	Expansion and conversion of structure to a three-unit apartment building

**III. ZONING REQUIREMENTS and RELIEF REQUESTED**

<b>RF-1 Zone</b>	<b>Regulation</b>	<b>Existing</b>	<b>Proposed</b>	<b>Relief</b>
Height E § 303	35-foot max.	26 feet, 9 in.	35 feet	None Required
Lot Width E § 201	18-foot min.	19 ft., 1.5 in.	19 ft., 1.5 in.	None Required
Lot Area E § 201	1,800 sq. foot min.	2,726 sq.ft.	2,726 sq.ft.	None Required
Lot Occupancy E § 304	60% max.	36%	49%	None Required
Front Yard E § 305	12.45-foot min.	12.45 feet	12.45 feet	None Required
Rear Yard E § 306	20 ft. min.	91.50 feet	73.80 feet	None Required
Parking C § 701.5	1 space per 2 units or 2	1 space	2 spaces	None Required
Conversion U § 320.2, special exception	1 unit / 900 sq.ft. minimum land area	1	3 units, 908.7 sq.ft. / unit	<b>Required</b>
Rear Wall Extension U § 320.2(e)	10-foot max.	None	26.17 feet	<b>Required</b>

**IV. ANALYSIS**

**Subtitle U Chapter 320 SPECIAL EXCEPTION USES**

**320.2** *Conversion of an existing residential building existing prior to May 12, 1958, to an apartment house shall be permitted as a special exception in an RF-1, RF-2, or RF-3 zone if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the following conditions:*

*(a) The maximum height of the residential building and any additions thereto shall not exceed thirty-five feet (35 ft.), except that the Board of Zoning Adjustment may grant a special exception from this limit to a maximum height of forty feet (40 ft.) provided the additional five feet (5 ft.) is consistent with Subtitle U §§ 320.2(f) through 320.2(i);*

Conforms. The proposed building height is 35 feet maximum.

*(b) The fourth (4<sup>th</sup>) dwelling unit and every additional even number dwelling unit thereafter shall be subject to the requirements of Subtitle C, Chapter 10, Inclusionary Zoning, including the set aside requirement set forth at Subtitle C § 1003.6;*

Not applicable. The application proposes three dwelling units.

*(c) There must be an existing residential building on the property at the time of filing an application for a building permit;*

Conforms. The subject property is currently improved with a one-family residential row house.

*(d) There shall be a minimum of nine hundred square feet (900 sq. ft.) of land area per dwelling unit;*

Conforms. The subject property consists of 2,726 square feet of lot area, or 908.67 square feet per dwelling unit proposed.

- (e) An addition shall not extend farther than ten feet (10 ft.) past the farthest rear wall of any adjoining principal residential building on any adjacent property;**

The addition would extend 26.17 feet beyond the furthest rear wall of a principal residence on an adjacent property. The applicant has requested relief from this provision; see OP analysis below.

- (f) Any addition, including a roof structure or penthouse, shall not block or impede the functioning of a chimney or other external vent compliant with any District of Columbia municipal code on an adjacent property. A chimney or other external vent must be existing and operative at the date of the building permit application for the addition;**

The proposed building addition would adversely affect a functioning chimney on the adjoining property to the east at 718 Upshur Street, and the applicant obtained an agreement with the owner of that property to extend the chimney (Exhibit 27). No other chimneys or vents would be affected.

- (g) Any addition, including a roof structure or penthouse, shall not significantly interfere with the operation of an existing solar energy system of at least 2kW on an adjacent property unless agreed to by the owner of the adjacent solar energy system. ...**

There are no solar energy systems on adjoining properties. Therefore, none would be affected.

- (h) A roof top architectural element original to the house such as cornices, porch roofs, a turret, tower, or dormers shall not be removed or significantly altered, including shifting its location, changing its shape or increasing its height, elevation, or size. For interior lots, not including through lots, the roof top architectural elements shall not include identified roof top architectural elements facing the structure's rear lot line. For all other lots, the roof top architectural elements shall include identified rooftop architectural elements on all sides of the structure;**

No alternations are proposed to the roof top architectural elements.

- (i) Any addition shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:**
- (1) The light and air available to neighboring properties shall not be unduly affected;**

Neighboring lots on the south side of Upshur Street are deep, generally with 75-foot rear yards, minimizing the impact the proposed addition would have light and air.

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

No windows or other openings would be provided on the sides of the proposed addition, and a seven-foot high privacy fence would be constructed along the side lot lines, further protecting the privacy of adjoining neighbors.

- (3) ***The conversion and any associated additions, 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 or alley;***

The proposed addition would be visible from the public alley. However, the design of the addition is residential in nature and the rear walls of other dwellings in the row are not all consistent, maintaining the character of the view from the alley.

- (j) ***In demonstrating compliance with Subtitle U § 320.2(i) the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the conversion and any associated addition to adjacent buildings and views from public ways;***

The application includes plans, photographs, elevations and drawings sufficient to represent the relationship of the proposed addition.

- (k) ***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 or nearby properties, or to maintain the general character of a block;***

OP makes no recommendations for special treatment.

- (l) ***The Board of Zoning Adjustment may modify or waive not more than three (3) of the requirements specified in Subtitle U §§ 320.2(e) through § 320.2(h) provided, that any modification or waiver granted pursuant to this section shall not be in conflict with Subtitle U § 320.2(i); and***

The applicant requests the waiver of one of the above listed requirements, § 320.2 (e). As noted above, OP does not find that the requested waiver to increase the extension by more than ten feet would adversely affect privacy of use, light and air or the pattern of houses as seen from the alley, as noted above under Subsection (i). No letters are in the file in opposition to the application and the adjoining neighbor to the west submitted a letter in support.

- (m) ***An apartment house in an RF-1, RF-2, or RF-3 zone, converted from a residential building prior to June 26, 2015, or converted pursuant to Subtitle A §§ 301.9, 301.10, or 301.11 shall be considered a conforming use and structure, but shall not be permitted to expand either structurally or through increasing the number of***

***units, unless approved by the Board of Zoning Adjustment pursuant to Subtitle X, Chapter 9, and this section.***

Not applicable. The subject property is not an apartment house converted prior to 2015.

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

DDOT, in a memorandum dated August 24, 2018, indicated that it had no objections to the application (Exhibit 36).

No other comments were received from other District agencies

#### **VI. COMMUNITY COMMENTS TO DATE**

ANC 4C is scheduled to review the subject application at its regularly scheduled meeting of September 12, 2018.

To date, seven letters had been submitted to the file in support of the application (Exhibits 28-33).

Attachment: Location Map

