

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Jonathan Kirschenbaum, Case Manager
JL Joel Lawson, Associate Director Development Review
DATE: October 26, 2018

SUBJECT: BZA Case 19854 (824 13th Street, NE) to permit the construction of a new three-story (plus cellar) semi-detached residential flat on an existing small, vacant lot of record.

I. OFFICE OF PLANNING RECOMMENDATION

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

- Lot Occupancy, Subtitle E § 304.1, pursuant to Subtitle X § 1000 (60 percent maximum permitted; 100 percent proposed);
- Rear Yard, Subtitle E § 306.1, pursuant to Subtitle X § 1000 (20 feet minimum required; no rear yard setback proposed); and
- Side Yard, Subtitle E § 307.1, pursuant to Subtitle X § 1000 (five-foot side yard required when a new dwelling or flat does not share a common division wall with an existing building on each resulting free-standing side; no side yard proposed).

The Office of Planning (OP) recommends **approval** of the following special exception relief:

- Parking, Subtitle C § 703.2, pursuant to Subtitle X § 900 (1 parking space minimum required; no parking spaces proposed).

II. LOCATION AND SITE DESCRIPTION

| | |
|----------------------|---|
| Address | 824 13 th Street, NE |
| Applicant | 824 13 th Street, LLC |
| Legal Description | Square 1003, Lot 0145 |
| Ward, ANC | 6/6A |
| Zone | RF-1 |
| Lot Characteristics | Rectangular interior record lot measuring just 21 feet by 33 feet; 693 sq.ft. in area. The site is bounded by 13 th Street, NE to the east, a semi-detached rowhouse to the north, a rear yard of a rowhouse to the west, and 10-foot public alley to the south. |
| Existing Development | Vacant lot. |
| Adjacent Properties | Residential rowhouses. |

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|------------------------------------|---|
| Surrounding Neighborhood Character | The surrounding neighborhood character is residential rowhouses. The subject site is near the mixed-use H Street corridor. |
| Proposed Development | The applicant proposes to erect a new semi-detached residential flat on a vacant record lot that has been in existence since at least 1888 based on a historical subdivision plat that was filed to the record (Exhibit 10). The proposed flat would be 35 feet in height and contain three stories, plus a cellar and a rooftop deck. The building would occupy 100 percent of the lot and would not provide a required rear yard, side yard, and parking space. |

III. ZONING REQUIREMENTS and RELIEF REQUESTED

| RF-1 Zone | Regulation | Existing | Proposed | Relief |
|--------------------------|--|-------------|--|--|
| Height E § 303 | 35 ft. max./ 3 stories | n/a | 35 ft./ 3 stories | None required |
| Lot Width E § 201 | 18 ft. min. for a new record lot | 33 ft. | No change | None required |
| Lot Area E § 201 | 1,800 sq.ft. for a new record lot | 693 sq. ft. | No change | Existing non- conformance |
| Lot Occupancy E § 304 | 60 % max. | n/a | 100% | Variance relief: 40% |
| Rear Yard E § 306 | 20 ft. min. | n/a | 0 ft. | Variance relief: 20 ft. |
| Front Setback E § 305 | Setback must be in range of existing front setbacks | n/a | Proposed front setback within range of existing front setbacks | None required |
| Side Yard E § 307 | 5 ft. min. on each resulting free-standing side | n/a | 0 ft. | Variance relief: 5 ft. |
| Parking C § 701 | 1 parking space per dwelling unit | n/a | 0 | Special exception relief: 1 parking space |

IV. OFFICE OF PLANNING ANALYSIS

a. Variance Relief from Subtitle E § 304.1, Lot Occupancy; Subtitle E § 306.1, Rear Yard; and Subtitle E § 307.1, Side Yard.

i. Exceptional Situation Resulting in a Practical Difficulty

According to OP analysis, there are 59 record lots on the subject square, with an average lot area of 968 square feet. The subject record lot contains 693 square feet of lot area making it one of the smaller lots on the square. However, the subject record lot is only 21 feet in depth, which makes it the shallowest lot on the square. Other record lots with a lot area less than the subject record lot have larger lot depths at either 40 feet or 50 feet than the subject record lot. Further, these record lots are all improved with 19th century rowhouses that pre-date zoning regulations and have an average building depth of 34 feet.

Lot Occupancy: If the applicant were to comply with the lot occupancy development standard of 60 percent maximum, the building area would be approximately 415 square feet, which would create a substandard layout and significantly restrict usable living space.

Side and Rear Yard: The proposed building would be built along its southern side lot line, which abuts a public alley. Under the current Zoning Regulations, the applicant would be required to provide a side yard along this lot line, because it is not possible for the subject building to share a common division wall with another building. If the applicant were to comply with this requirement, one side yard would be provided, and would result in a maximum permitted building width of 28 feet. This would be a substantial loss of building area, and a practical difficulty would arise due to the shallow depth of the record lot.

Complying with both the 20-foot rear yard development standard and side yard development standard would result in a building depth of only one foot and a building area of 28 square feet. Even if relief was granted for a partial side yard and rear yard setback, it would not be practical to construct a viable building due to the exceptionally small size of the record lot. Such a building would be too shallow and would result in a building area that would be less than the building area of most rowhouses on the square.

The proposed residential flat would comply with the maximum height and dwelling unit requirements of the RF-1 zone. The number of dwelling units proposed does not impact the relief requested, as the variances pertain to the size and usability of a building floorplate.

ii. No Substantial Detriment to the Public Good

To the south, where a side yard would be required, the proposed building would not directly abut another residential building because of an existing 10-foot wide public alley. To the west, where a rear yard would be required, the proposed building would not directly abut the existing rowhouse on record lot 118, but instead would be located adjacent to its rear yard, and this property owner has filed a letter of support to the record (Exhibit 39). To the north, the proposed building would be attached to the rowhouse on record lot 144. An at-risk window on this property would have to be covered due to the construction of the proposed building. However, that property owner has also submitted a letter of support to the record for the proposal (Exhibit 36).

Improving the lot with a residential flat would provide additional housing units consistent with the neighborhood and in an area well-served by public transportation. The proposed building should not restrict light, air, or privacy to existing adjacent development, and there would be no substantial detriment to the public good.

iii. No Substantial Harm to the Zoning Regulations

The intent of the side yard, rear yard, and lot occupancy development standards is to ensure that there is adequate open space provided on individual lots, and that there is sufficient space between proposed and adjacent uses. As noted above, there is sufficient open space between the proposed building and the buildings on adjacent record lots. Further, the

proposed building typology is that of a rowhouse, where side yards are typically not required.

The requested variances are based on the exceptionally small area of the record lot and the need to design a residential building with a floor plate large enough to accommodate contemporary living requirements. The zoning regulations incentivize building on existing record lots by not prescribing minimum lot width or lot area requirements. The intent is to help promote infill housing, such as the proposed building, on existing vacant development sites. Thus, the proposed variance relief would not substantially harm the intent of the zoning regulations.

b. Special Exception Relief from Subtitle C § 703.2, Special Exceptions from Minimum Parking Number Requirements.

Subtitle C § 703.1 allows for a reduction in required parking as a special exception if the parking is “*impractical or unnecessary due to the shape or configuration of the site, a lack of demand for parking, or proximity to transit.*” Subtitle C § 703.2 requires the applicant to demonstrate that there is at least one of a list of conditions relative to the site and request. The development proposal meets several of the conditions, including:

- (a) **Due to the physical constraints of the property, the required parking spaces cannot be provided either on the lot or within six hundred feet (600 ft.) of the lot in accordance with Subtitle C § 701.8;**
- (b) **The use or structure is particularly well served by mass transit, shared vehicle, or bicycle facilities;**
- (c) **Land use or transportation characteristics of the neighborhood minimize the need for required parking spaces;**

The proposal would have a parking requirement of one parking space, which cannot be accommodated on-site due to the exceptionally small size of the lot. The applicant states that there are no other available parking locations within 600 feet of the development site. The applicant has demonstrated through Exhibit 14 (pages 2-6) that the development site is well served by mass transportation, which includes a bus stop 377 feet away and a streetcar stop 390 feet away. There is a ZipCar location 0.2 miles away, and a Capital Bikeshare station 0.3 miles away. The development site is located approximately 270 feet away from the H Street commercial corridor. This commercial street provides many retail and transportation options that are a short walking distance from the development site.

703.3 Any reduction in the required number of parking spaces shall be only for the amount that the applicant is physically unable to provide, and shall be proportionate to the reduction in parking demand demonstrated by the applicant.

The applicant is requesting full relief from the parking requirement of one parking space, and has provided sufficient justification for this level of relief.

703.4 Any request for a reduction in the minimum required parking shall include a transportation demand management plan approved by the District Department of Transportation, the implementation of which shall be a condition of the Board of Zoning Adjustment’s approval.

The DDOT report at Exhibit 42 notes that, due to the size of the project and land use, DDOT does not find a TDM Plan necessary.

V. COMMENTS OF OTHER DISTRICT AGENCIES

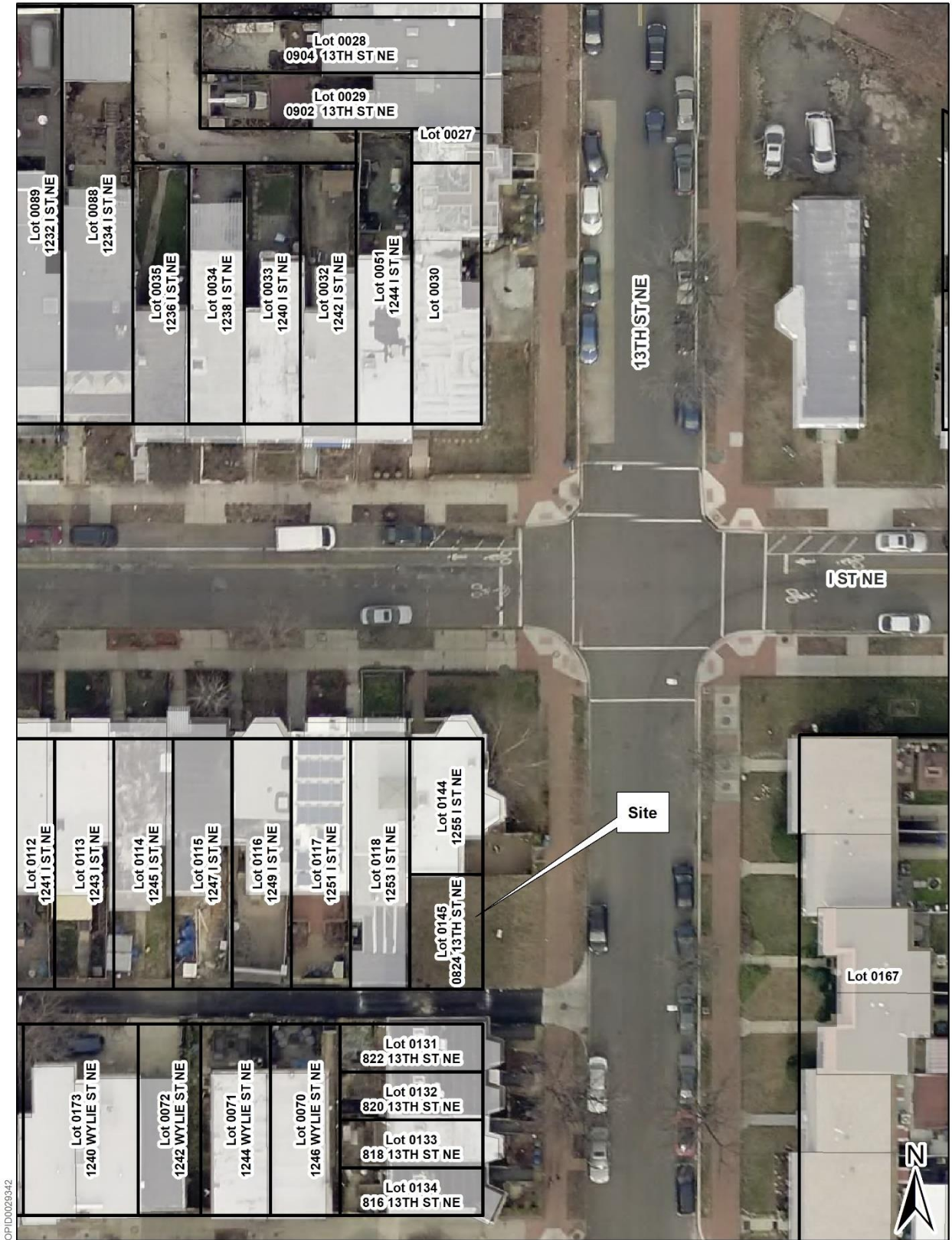
The DDOT report at Exhibit 42 notes no objection to the proposal. As of the date of this report, no comments from other District agencies have been provided to the record.

VI. COMMUNITY COMMENTS TO DATE

No comments from the ANC had been submitted to the record at the time this report was drafted.

Two letters of support were filed to the record by neighbors that directly abut the subject property (Exhibits 36 and 39). One letter of support was filed to the record by the property owner directly south of the subject property (Exhibit 38). There is also a petition in support at Exhibit 37, with eleven signatures. A letter of opposition was filed to the record by the Capitol Hill Restoration Society (Exhibit 41).

Location Map:



OPID0029342