

## MEMORANDUM

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

**FROM:** Jonathan Kirschenbaum, Case Manager

*JL* Joel Lawson, Associate Director Development Review

**DATE:** July 5, 2019

**SUBJECT:** BZA Case 20027 (520 Groff Court, NE) to permit the expansion of existing residential alley lot row building.

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### **I. BACKGROUND**

When this application was originally filed, the applicant requested relief from both the height and alley centerline setback development standards as variances, based on recommendations from both the Zoning Administrator's Office and the Office of Planning (OP). However, the applicant subsequently amended the application on June 26, 2019 to request that the Board make a determination that the following areas of relief could be reviewed as special exceptions:

- Height, Subtitle E § 5102.1, pursuant to E § 5203.1;
- Alley Centerline Setback, Subtitle E § 5106.1, pursuant to E § 5201.1; and
- Nonconforming Structures, Subtitle C § 202.2, pursuant to E § 5201.1.

OP **does not support** the applicant's request to review alley building height, alley centerline setback, and the nonconforming structures development standards as special exceptions. Instead, it is OP's position, following further discussions with the Zoning Administrator's Office, that these development standards must be reviewed as variances.

Subtitle E Chapter 51, Alley Lots states that the bulk of alley buildings in all RF zones is controlled by the development standards of E §§ 5102 through 5108. There are no other applicable development standards or special exceptions for alley lot buildings except for those listed in §§ 5102 through 5108. Rather, Subtitle E § 5108 states that special exceptions to the alley lot development standards are subject to the limitations of Subtitle E § 5204, which only permits a reduction in the minimum yard requirements for alley lots by special exception.

The applicant argues that relief from height can be reviewed as a special exception pursuant to Subtitle E § 5203. However, the development standards for alley lots in Subtitle E §§ 5102 through 5108 do not refer to E § 5203. Rather, Subtitle E § 5203 applies to principal buildings on non-alley lots that request a five-foot increase in height to 40 feet as a special exception from the maximum permitted by-right height of 35 feet. The Zoning Commission did not intend for this special exception to apply more broadly, such as to principal buildings located on alley lots. As such, the applicant is not permitted to use this special exception provision in this case and OP would strongly oppose any request to do so.

The applicant also states that relief from alley centerline setback and nonconforming structures can be reviewed as a special exception pursuant to Subtitle E § 5201. However, the applicant is not permitted to use this special exception provision because the development standards for alley lots in Subtitle E §§ 5102 through 5108 do not refer to it.

## II. OFFICE OF PLANNING RECOMMENDATION

While OP would oppose any request to review the proposed relief as special exceptions and has not reviewed any special exception justification that may have been supplied, applicant has also appropriately analyzed the height, alley centerline setback, and nonconforming structures development standards as variances. If the applicant amends this application back to being a request for variance relief, OP feels that the applicant has made a reasonable case, and would recommend **approval** of the following variance relief:

- Height, Subtitle E § 5102.1, pursuant to Subtitle X § 1000 (20 ft. maximum permitted; 23 ft. 8 in. for existing development, 23 ft. 8 in. for proposed for addition)
- Nonconforming Structures, Subtitle C § 202.2, pursuant to Subtitle X § 1000 (existing nonconforming structure would be enlarged creating new conformities)
- Alley Centerline Setback from the 20 foot wide **east alley**, Subtitle E § 5106.1, pursuant to Subtitle X § 1000: (10 ft. setback from the centerline of the alley existing, 12 feet required; 10 ft. setback proposed, so two feet of relief requested to allow the addition to be constructed on the lot line, as is the current house)

However, OP recommends **approval** of the following variance relief only subject to the stated condition and for the reasons provided:

- Alley Centerline Setback from the 10 foot wide **north alley**, Subtitle E § 5106.1, pursuant to Subtitle X § 1000: 16 ft. 11 in. setback from the centerline of the alley existing, 12 feet required; 5 ft. setback proposed so seven feet of relief requested to allow the addition to be constructed on the lot line; **subject to the application being amended to provide a setback from the centerline of the alley of 6 feet minimum (one additional foot)**. The effect would be that the wall of the new house would be set back from the alley lot line a minimum of one foot. This would:
  - Be more closely consistent with the OP's understanding of the intent of the regulation, to ensure that new construction does not further restrict alley passage and site-lines, and that the proposed new construction can be protected from passing vehicles;
  - Provide the applicant with a reasonable and practical width for the proposed addition;
  - Accommodate normal building projections such as window sills or other building details without further restricting the narrow alley width;
  - Allow the applicant space to provide fencing, bollards or other protective measures for the house, if desired; and
  - To some extent, address Department of Public Works and community concerns about the narrowness of this alley.

Without this one foot of additional setback, OP feels the setback relief request would be contrary with the intent of the zoning provision and could impact the functionality of the alley.

OP acknowledges that a previous house was constructed to the lot line, that vehicles have no right to trespass across this private property, and that the applicant could by-right construct a garden wall, fence, or other barrier on this lot line, as other residents have done. However, the provision of a minimal one-foot of additional setback, while not providing for a wider alley, would help to ensure that the alley is not further narrowed (effectively or actually) by the proposed construction.

**III. LOCATION AND SITE DESCRIPTION**

Address	520 Groff Court, NE
Applicant	Kara Benson
Legal Description	Square 779, Lot 179
Ward, ANC	6/6C
Zone	RF-3
Historic District	Capitol Hill
Lot Characteristics	Corner alley lot measuring 24.66 ft. by 51.71 ft. The lot is bounded by a 10 ft. wide public alley to the north, a row building to the south, a 20 ft. wide public alley to the east, and a 10 ft. wide public alley to the west.
Existing Development	The applicant consolidated two record lots into one record lot. Half of the property is improved with an existing two-story residential row building and a backyard. The other half of the property is unimproved and is presently used for a parking space and part of a backyard.
Adjacent Properties	Two-story residential row buildings.
Surrounding Neighborhood Character	Residential row buildings.
Proposed Development	The applicant proposes to construct a new two-story side addition to an existing residential row building on an alley lot with one dwelling unit. The addition would match the building envelope of the existing row building and would be designed to appear as a separate row building but would function as a single dwelling unit.

**IV. ZONING REQUIREMENTS and RELIEF REQUESTED for ALLEY LOTS**

Zone – RF-3	Regulation	Existing	Proposed	Relief
Height E § 5102.1	20 ft. max.	23 ft. 8 in.	23 ft. 8 in.	<b>Variance relief: 3 ft. 8 in. for addition</b>
Lot Width C § 303.3(c)	None required	26.66 ft.	No change	None required
Lot Area C § 303.3(c)	None required	1,345 sq. ft.	No change	None required
Lot Occupancy E § 5103.1	No requirement for lots less than 1,800 sq. ft. in size	n/a	n/a	None required
Rear Yard E § 5104.1	5 ft. min. from lot line when abutting non-alley lots	n/a	n/a	None required

<b>Zone – RF-3</b>	<b>Regulation</b>	<b>Existing</b>	<b>Proposed</b>	<b>Relief</b>
Side Yard E § 5105.1	5 ft. min. from lot line when abutting non-alley lots	n/a	n/a	None required
Alley Centerline Setback E § 5106.1	12 ft. minimum required setback from the centerline of all abutting public alleys	northern alley: 16 ft. 11 in.	5 ft.	<b>Variance relief: 7 ft.</b>
		eastern alley: 10 ft. for existing building	10 ft. for addition	<b>Variance relief: 2 ft.</b>
		western alley: 31 ft. 8½ in.	27 ft. 8½ in.	None required

**V. OFFICE OF PLANNING ANALYSIS**

**Variance Relief from Subtitle E § 5106, Alley Centerline Setback; Subtitle E § 5102.1, Height; and Nonconformities Subtitle C § 202.2.**

**i. Exceptional Situation Resulting in a Practical Difficulty**

The proposed enlargement would be constructed on a portion of the lot that historically had a residential row building (Exhibit 8), demolished many years ago. A historical Baist map from 1909 shows that the row building that once existed was built both to the front and north side property lines. After the demolition of this row building, the lot remained the only unimproved record lot on the square until the applicant consolidated the record lots.

Alley Centerline Setback: The subject alley lot is unique in that it is one of few alley lots that abut three public alleys. Any new building on the lot would require a 12-foot setback from the centerline of all three alleys, which would significantly limit the developable area of the lot; in this case, particularly the setback from the narrow north alley and from the 20-foot eastern alley.

The required 12-foot set back from the east alley would result in the front façade of the proposed addition being set back two feet from the front property line, which would restrict usable interior space on a relatively wide alley, and would be inconsistent with the façades of the existing row of dwellings.

It would be even less practical for the applicant to comply with the 12-foot setback from the centerline of the north alley as it would result in an addition that is only five feet wide (four feet of usable interior space). The applicant states that an addition of five feet in width would be functionally useless without a significant reconfiguration of the floorplan of the existing row building. The existing party wall is a solid masonry bearing wall and the applicant states that it would be prohibitively expensive to alter it if the applicant had to reconfigure the floorplan of the existing row building. Further, the existing kitchen and stairs would have to be reconfigured and an additional bedroom on the second floor would not be able to be incorporated into the proposed addition. However, the provision of one additional foot of setback, while still requiring relief, would result in a reasonable and practical addition of about 10 feet of interior width.

Height: The addition would have a dropped first floor from the existing row building because the public alley slopes downward. It is also dropped to mimic the existing row buildings that all step down along the public alley.

While the second floor could also be stepped down to comply with 20-foot height requirement, such a design would not be practical. The applicant intends to keep the existing staircase, and if the second floor were to be dropped, additional stairs down into the proposed master bedroom would have to be provided. The applicant states that due to the existing layout there would not be enough space at the top of the landing of the existing staircase for this. As a result, the second floor is proposed to be aligned with the existing floor. However, if the proposed second floor addition were to be aligned *and* if the addition complied with the overall height limit of 20 feet, the ceiling height on the second floor would only be 6 ft. 9 in. (Exhibit 29 – page 9 of PDF), which would not meet building code.

## ii. No Substantial Detriment to the Public Good

Alley Centerline Setback: The unimproved portion of the lot would be developed with an addition that would be similar in footprint to that of the row building that historically existed. The only residential building the proposed addition would abut is the existing row building on the lot, as there are public alleys on all other sides. The proposed addition would be designed in a similar architectural style of the existing row buildings on the block front.

There are concerns that constructing on the north lot line, as proposed, would further restrict the 10-foot wide alley, and place the addition at risk of damage. DPW comments (provided below) indicate a concern with the ability to collect trash along this alley. Many of the street fronting lots on this alley have structures along the alley lot line, including the subject site which has a brick fence at this location. However, OP has recommended that the applicant provide a small amount of setback for the proposed addition, to minimize potential detrimental impacts on the use of the alley, and to better ensure the protection of the addition from serious damage.

Height: The height relief as proposed should result in no undue impact on the public – the addition would be the same height as the existing house, and is separated from all adjacent houses by alleys and rear yards so there should be no undue impact on light or air flow through the alley. The applicant has provided a shadow study at Exhibit 43C.

## iii. No Substantial Harm to the Zoning Regulations

Alley Centerline Setback: Other than along alleys, it is highly uncommon for buildings to be placed on a lot line directly adjacent to a public right of way travel surface. OP's understanding of the intent of the alley centerline setback standard is to ensure that there is adequate maneuverability and site lines for cars and service vehicles, and to ensure that any structures are able to be protected from vehicle damage. OP does not believe that the intent of the regulation is to effectively widen, for public vehicle movement purposes, the alley onto private property.

There should be ample maneuverability on the east 20-foot public alley for cars and garbage trucks, and the proposal would not significantly reduce alley width. In addition, the other directly adjacent row buildings on this alley do not set back from this public alley.

Most of the north alley would continue to be 10 feet in actual width regardless of the proposed addition. The applicant demonstrates in Exhibit A (Exhibit 29 – pages 3-8 of PDF) that existing street facing row buildings, alley garages, and a brick fence on the applicant's property all directly abut the 10-foot public alley without any setback. However, OP continues to recommend an additional foot of setback as being more consistent with the intent of the regulations; it would allow normal, small architectural embellishments on the addition without further restricting this narrow alley.

Height: The intent of the height development standard is to ensure that the existing character of the alley is not negatively altered, that alley dwellings remain visually "secondary" to the street fronting buildings, and to ensure that there is adequate light and air throughout the alley system. The proposed addition would be the same height and massing as the existing row buildings on the subject block front.

## VI. COMMENTS OF OTHER DISTRICT AGENCIES

The Department of Public Works provided the following comment to OP:

"... this is a H style alley with collection points throughout. Part of the alley requires the crews to manually walk the bins to the truck because of the tightness in the alley. If they make the alley any tighter the truck would not be able to back down to minimize how far they would have to walk the bins to the truck. Right now it's about 20-30 bins on this side."

The Historic Preservation Office report in general support of the proposal is provided to the record at Exhibit 43D, and the proposal was subsequently approved by the HPRB. The report notes that "*Approval by the HPRB should not be construed as support for any necessary zoning relief.*"

## VII. COMMUNITY COMMENTS TO DATE

Commissioner Eckenwiler of ANC 6C04 filed email comments to the record stating that ANC 6C voted 5-0 to consent to the applicant's request to postpone the BZA hearing date to July 17, 2019. As of the date of this report, an ANC report with recommendation regarding this case had not been filed to the record.

One letter in support of the application was filed to the record (Exhibit 26) at the time this report was drafted.

One letter in opposition to the application was filed to the record (Exhibit 41) at the time this report was drafted.

Seven area residents filed a request for party status in opposition (Exhibit 30).



Attachment: Location Map

