

**MEMORANDUM**

**TO:** District of Columbia Board of Zoning Adjustment  
**FROM:** Stephen J. Mordfin, Case Manager  
*JL* Joel Lawson, Associate Director Development Review  
**DATE:** June 28, 2019  
**SUBJECT:** BZA Case 20038: Request to permit an accessory building unit with a dwelling unit on the second floor

**I. RECOMMENDATION**

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

- E § 304.1, Lot Occupancy (60 percent permitted, 44.2 percent existing; 67.3 percent proposed); and
- E § 5003.1, Accessory Structure Lot Occupancy (the greater of 30 percent of the required rear yard area (120 square feet) or 450 square feet permitted; none existing; 490 square feet proposed).

OP recommends **approval** of the following special exception use:

- U § 301.1(e), to permit a dwelling unit in an accessory structure less than five years after the approval of the building permit for that accessory building.

**II. LOCATION AND SITE DESCRIPTION**

Address	221 10 <sup>th</sup> Street, S.E.
Applicant	Kristi and Charles Cooper
Legal Description	Square 944, Lot 35
Ward, ANC	Ward 6, ANC 6B05
Zone	RF-1
Lot Characteristics	Rectangular lot with rear alley access less than 300 feet from Independence Avenue, S.E.
Historic District	Capitol Hill
Existing Development	One-family row house with no accessory structures
Adjacent Properties	North, South and West: Row houses with detached garages East: Across 10 <sup>th</sup> Street, row houses
Surrounding Neighborhood Character	Moderate density residential

Proposed Development	Two-story accessory building with a garage on the first floor and a dwelling unit on the second
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**III. ZONING REQUIREMENTS and RELIEF REQUESTED**

RF-1 Zone	Regulation	Existing	Proposed	Relief
Height (Row Dwelling) E § 303	35 feet and 3-story max.	30 feet and 3-stories	30 feet and 3-stories	None Required
Height (Accessory Bldg.) E § 5002	20 feet and 2-story max.	N/A	20 feet and 2-stories	None Required
Lot Width E § 201	18-foot min.	20 feet	20 feet	None Required
Lot Area E § 201	1,800 sq. ft. min.	2,117.5 sq.ft.	2,117.5 sq.ft.	None Required
Lot Occupancy E § 304	60.0% max. (70% by S.E.)	44.2%	67.3%	<b>REQUIRED</b>
Lot Occupancy (Accessory Bldg. only) E § 5003	30% of required rear yard or 450 square feet	None	490 square feet	<b>REQUIRED</b>
Rear Yard E § 306	20-foot min.	54 feet, 10.5 inches	54 feet, 10.5 inches	None Required
Parking C § 701	1 space/ 2 dwelling units or 2	1 space	1 space	None Required

**IV. ANALYSIS**

**A. Subtitle E Chapter 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:*

- (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.**

The applicants request approval to increase the lot occupancy of the entire lot and to increase the lot occupancy permitted for an accessory building.

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.*

The applicants propose to build an accessory structure in the rear yard.

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 proposed accessory building would be located in the rear yard within a row of other existing one and two-story accessory structures. As no relief is requested for either height or number of stories, the proposed structure would be in conformance with the Zoning Regulations for height, minimizing the impact the proposal would have on adjoining properties.

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

Windows and doors of the proposed structure would face either into the rear yard of the subject property or the alley only, similar to the existing two-story accessory structure on the adjacent property to the south. In combination with the trees in the rear yards of the adjacent properties to the north and south, privacy of use and enjoyment should not be unduly compromised.

- (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 proposed accessory structure would be located between two existing accessory structures along an alley where most of the lots abutting the alley are improved with accessory structures, many of which are two-stories in height, consistent with the existing pattern of development.

- (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 applicant submitted plans, photographs and elevation drawings sufficient to represent the relationship of the proposed accessory structure to nearby buildings and public ways.

- (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%).*

A lot occupancy of 67.3 percent is proposed, less than the maximum seventy percent permitted by special exception in the RF-1 zone.

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 makes no recommendations for special treatment.

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

The subject application would not result in the introduction or expansion of 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 subject application would not result in the introduction or expansion of nonconforming height or number of stories.

## **B. Subtitle U Chapter § 301.1(e), ACCESSORY BUILDINGS IN THE RF ZONE**

*i. An accessory building constructed as a matter-of-right after January 1, 2013, and that is located within a required setback shall not be used as, or converted to, a dwelling unit for a period of five (5) years after the approval of the building permit for the accessory building, unless approved as a special exception;*

A dwelling unit is proposed to be located in the new accessory structure, less than five years after the approval of the building permit for the accessory structure.

*ii. Is the proposal in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps?*

The proposed accessory building would allow the applicant to use the subject property as a flat, or two dwelling units, a use otherwise permitted as a matter-of-right within the RF-1 zone.

*iii. Would the proposal appear to tend to affect adversely, the use of neighboring property?*

The proposal would permit a second dwelling unit on the property to be located within a new accessory structure, similar to other accessory structures along the same alley within the square constructed five or more years ago. It would neither increase the number of units beyond what is permitted as a matter-of-right within the RF-1, nor would it differ in use from other existing accessory structures along the same alley.

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

The application is tentatively scheduled for review by the Historic Preservation Review Board in July 2019.

No comments from other District agencies were submitted to the record as of the date of this report.

### VII. COMMUNITY COMMENTS TO DATE

ANC 6B, at its regularly scheduled meeting on June 11, 2019, voted to support the application (Exhibit 32).

Six letters were submitted to the file in support of the application (exhibits 15-17 and 33-35).

Attachment: Location Map

