

Burden of Proof

Attn:

Members of the Board of Zoning Adjustment
441 4th Street, Suite 200 South
Washington DC 20001

RE: 802 10th Street, NE - Penthouse Special Exception
(SSL) 0933 0047

1. Nature of Relief Sought

a. Special Exception for a penthouse in an RF zone per E202, C1500.4, C1502.1c, and E5205.

2. Project Information

a. **EXISTING CONDITIONS:** The property at 802 10th Street, NE (SSL 0933 0047) has an area of 1,736 sf. The existing use is a vacant lot. The property is located a few doors north of H Street, NE and one property north of the NC-16 zone.

b. **PROPOSED:** The project includes the construction of a single building containing two dwelling units. The building is limited to three stories and 35' in height and will have a partially buried cellar; first floor, second floor, and third floor. The cellar will be constructed of CMU, the remaining framing, flooring, and roof will be constructed of wood, type V construction. The floors will be roughly 966 sf each for a total building area of 3,986 sf. The dwelling units will contain a kitchen, living/dining area, laundry, three sleeping rooms, and bathrooms. The lower unit will have a rear patio at grade. The upper unit, occupying the second and third floor will have a rear balcony on the third floor. The dwelling units will be heated and cooled by a gas fueled HVAC ducted system. Each unit will also contain a gas fueled hot water heater. The building will be sprinklered. A building permit, B1811092, was issued for the work above in early January 2019. We are seeking BZA approval for a special exception per section C-1500 Penthouse. The roof is proposed to contain a 156 sf roof deck and an 82 sf stair penthouse. The roof deck is accessed from the 3rd floor via an internal stair.

3. Statement of Compliance for Special Exception

- a. The light and air available for the neighboring properties shall not be unduly affected. The proposed use of a penthouse and rooftop would not adversely affect the lighting, views, or enjoyment of neighboring property. The subject property extends beyond the adjacent by approximately 21'-8". The proposed 8'-6" high penthouse sits back approximately 14'-3" from the front of the property wall providing limited view from the street.
- b. The privacy of use and enjoyment of neighboring properties shall not be unduly compromised. None of the properties have any windows through which the proposed work can be seen. The requirement of offering privacy of use and enjoyment will remain intact for the adjacent property.

4. Statement of Compliance for Relief to Penthouse Requirements

Per Section 1502.1; the roof deck, guard rails and stairs are required to be setback from the rear wall, side wall, front wall and party wall line by a distance equal to the height of these elements from the top of the roof in which they are located.

Per Section 1504.1; Relief to the requirements of Subtitle C §§ 1500.6 - 1500.10 and 1502 may be granted as a special exception by the Board of Zoning Adjustment subject to Subtitle X, Chapter 9 and subject to the following considerations:

It is our understanding this project qualifies for relief and meets the intent of the Zoning Ordinance.

- a. The strict application of the requirements of this chapter would result in construction that is unduly restrictive, prohibitively costly, or unreasonable, or is inconsistent with building codes; To locate the penthouse within the 1:1 setback from the side of the property is not possible due to the narrowness of the property, which is 16'-4 1/2". The penthouse at 8'-6" high and would require a property width of over 21' in order to comply with 1502.1(c).
- b. The relief requested would result in a better design of the roof structure without appearing to be an extension of the building wall. The proposed location along the north property provides the best opportunity to push the penthouse away from pedestrian views along H Street. Additionally locating on the stair on the south property line would have conflicted with the existing exhaust from the neighbors property requiring the exhaust termination to extend above the stair penthouse.
- c. The relief requested would result in a roof structure that is visually less intrusive. The requested relief will allow the penthouse to be minimally viewable from H Street.
- d. Every effort has been made for the housing for mechanical equipment, stairway, and elevator penthouses to be in compliance with the required setbacks. Every effort has been made to incorporate building components within the required setbacks. The Penthouse location is in

compliance with setback requirements for the front of the building, south property line & the alley. The rooftop deck is within compliance along all four sides of the property.

e. The intent and purpose of this chapter and this title shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely. The proposed design would have little to no impact on light and air of the adjacent building and doesn't adversely affect the adjacent property.

Respectfully,

Matthew J Corell
Agent of the Owner
DBMC Design LLC

A handwritten signature in black ink, appearing to read 'Aaron Ruderman', with a long horizontal flourish extending to the right.

Aaron Ruderman
Owner