

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Matt Jesick, Case Manager
JL Joel Lawson, Associate Director for Development Review

DATE: July 19, 2019

SUBJECT: BZA #20062 – 802 10th Street, NE – Special exceptions to permit a rooftop penthouse on a flat

I. RECOMMENDATION

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

- C § 1500.4, Penthouse on a Rowhouse, pursuant to the same section, C § 1500.4 (Penthouse on a rowhouse not permitted except by special exception; rooftop access stair penthouse proposed on a flat);
- C § 1502.1(c)(1)(A), Penthouse Side Setback, pursuant to C § 1504.1 (1-to-1 penthouse setback required, zero setback provided for the stair penthouse against the north wall).

The applicant has not requested relief from rooftop railing setback requirements, so at the time of permitting the design will need to comply with the required 1-to-1 setback.

II. LOCATION AND SITE DESCRIPTION

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| Applicant | Mid City Builders, LLC |
| Address | 802 10 th Street, NE |
| Legal Description | Square 933, Lot 47 |
| Zoning | RF-1 (Moderate density rowhouses and flats) |
| Ward and ANC | 6, 6A |
| Historic District or Resource | None |
| Lot Characteristics and Existing Development | Existing rowhouse lot with 19.75' alley at the rear. |
| Adjacent Properties and Neighborhood Character | The house to the south is a two story rowhouse. The two-story house to the north is set back by a small amount from the shared property line; So while technically a semi-detached building, it visually functions as a rowhouse. |

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| | The site is just north of the H Street mixed use corridor. The residential neighborhood to the north is almost exclusively rowhouses. This side of 10 th Street has almost all 2-story rowhouses. |
| Project Description | The subject site is currently under construction with a matter-of-right flat. The applicant wants to provide rooftop access for the upper unit by providing an access stair penthouse. No additional penthouse enclosed space is proposed. |

III. ZONING REQUIREMENTS AND RELIEF REQUESTED

The applicant has requested special exception relief in order to allow the construction of a penthouse stair enclosure on the roof of a flat, and to allow the penthouse to have a zero setback.

| RF-1 Zone | Regulation | Existing | Proposed | Relief |
|---|--|------------------------------|---|-------------------------|
| Lot Area E § 201.1 | 1,800 sf | 1,736 sf | No change | Existing Non-Conforming |
| Lot Width E § 201.1 | 18' | 16.4' | No change | Existing Non-Conforming |
| Lot Depth | n/a | 106' | No change | Conforming |
| Height E § 303.4 | 35', 3 stories | 35', 3 stories plus cellar | No change | Conforming |
| Lot Occupancy E § 304 | 60% | 55% | No change | Conforming |
| Front Setback E § 305 | Within range of existing streetscape | In line with other rowhouses | No change | Conforming |
| Rear Yard E § 306 | 20' | 47.1' | No change | Conforming |
| Penthouse on a Flat C § 1500.4 | Penthouse on a flat not permitted except by special exception | No penthouse | Penthouse with rooftop access stair proposed | Requested |
| Penthouse Setbacks C § 1502.1(c)(1)(A) | 1-to-1 side setback | n/a | 0' setback from north wall | Requested |

IV. ANALYSIS

Special Exception to Include a Penthouse on a Rowhouse

A penthouse is not permitted on a flat unless approved by the Board as a special exception, pursuant to Subtitle C § 1500.4

1500.4 Notwithstanding Subtitle C § 1500.3, a penthouse, other than screening for rooftop mechanical equipment or a guard-rail required by Title 12 of the DCMR, D.C. Construction Code for a roof deck, shall not be permitted on the roof of a detached dwelling, semi-detached dwelling, rowhouse or flat in any zone; however, the Board of Zoning Adjustment may approve a penthouse as a special exception under Subtitle X, Chapter 9, provided the penthouse:

- (a) Is no more than ten feet (10 ft.) in height and contains no more than one (1) story; and*

The proposed penthouse would be approximately 8'6" tall and one story.

- (b) Contains only stair or elevator access to the roof, and a maximum of thirty square feet (30 sq. ft.) of storage space ancillary to a rooftop deck.*

The penthouse would include only stair access and no storage space.

Penthouse Setback Special Exception

Subtitle C, § 1504.1 allows relief from the penthouse setback requirements. The applicant requests relief to permit a zero-foot setback from the north wall for the rooftop stair penthouse. OP's analysis of the considerations of § 1504 follows.

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:

- (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;*

Because of the width of the lot, 16.375', full compliance with a 1-to-1 side setback would be impossible. Also, should the stair be moved toward the center of the roof to create a partial setback, the layout on the floor below would become inefficient.

- (b) *The relief requested would result in a better design of the roof structure without appearing to be an extension of the building wall;*

Locating the penthouse on the north property line could result in an appearance of a taller wall along a common lot line. In response to inquiries by OP, the applicant stated that the penthouse would be the same stucco as the sides and rear of the building. OP also recommended that the applicant provide additional renderings and a north elevation.

- (c) *The relief requested would result in a roof structure that is visually less intrusive;*

Locating the penthouse at the northern wall, and well back from the front and the rear, would minimize visibility from most vantage points, including the southern exposure to H Street and the bulk of the pedestrian traffic. From the north, the continuous row of rowhouses should minimize potential visual impacts.

- (d) *Operating difficulties such as meeting D.C. Construction Code, Title 12 DCMR requirements for roof access and stairwell separation or elevator stack location to achieve reasonable efficiencies in lower floors; size of building lot; or other conditions relating to the building or surrounding area make full compliance unduly restrictive, prohibitively costly or unreasonable;*

Full compliance for a stairwell would be impossible and unreasonable given the narrowness of the lot and the layout of the floor below. The stairwell for the building is on the north side of the building, and for maximum efficiency of the 3rd floor it makes sense to locate the rooftop stair also along the north wall.

Given the width of the lot, placing a stairwell at either the north wall or the south wall is the most logical location for a useable layout on all floors. Locating the stairwell and the stair penthouse in the middle of the building, which would only result in a partial setback, would highly disrupt the layout of the 3rd floor and floors below.

- (e) *Every effort has been made for the housing for mechanical equipment, stairway, and elevator penthouses to be in compliance with the required setbacks; and*

The proposed design would provide front, rear and south side setbacks that exceed the required 1-to-1 ratio. The applicant stated to OP that other alternatives were studied, such as a rooftop hatch or an open stair with no penthouse structure, but were rejected for reasons such as ease of use by residents or a desire to keep water out of the interior of the building envelope.

- (f) *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 light and air available to neighboring properties should not be unduly impacted. The flow of air should not be altered significantly, compared to a conforming solution. Any additional shadow should fall on the roof of the property to the north. Pushing the stair to the north would minimize visibility of the penthouse from H Street and other points to the south.

V. COMMENTS OF OTHER DISTRICT AGENCIES

As of this writing the record contains no comments from other District agencies.

VI. COMMUNITY COMMENTS

As of this writing the record contains no comments from the ANC or the community.

VII. VICINITY MAP

