

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Karen Thomas, Case Manager
JL Joel Lawson, Associate Director Development Review

DATE: September 20, 2019

SUBJECT: BZA Case 20116- request for special exception and variance relief to allow the conversion of a rowhouse into a 3-unit apartment house at 2705 11th Street NW.

I. OFFICE OF PLANNING RECOMMENDATION

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

Special Exception Relief:

- Subtitle U § 320.2 – to allow the conversion of a rowhouse into a 3-unit apartment house; and

Variance Relief:

- Subtitle U § 320.2 (d) – to allow the conversion of a rowhouse into a 3-unit apartment house on a lot with less than 900 SF per unit
- Subtitle C § 712.3 – to allow 2 compact on-site parking spaces

II. LOCATION AND SITE DESCRIPTION

| | |
|------------------------------------|--|
| Address | 2705 11 th St NW |
| Legal Description | Square 2858, Lot 0018 |
| Ward / ANC | 1/ 1B |
| Lot Characteristics | The subject property is a 1,465 SF rectangular lot abutting a 15-foot public alley at the rear. |
| Zoning | RF-1 – apartments are permitted through conversions subject to lot area requirements. |
| Existing Development | The existing Certificate of Occupancy for two units (Exhibit 11) was issued in 1988. The basement, however, has a third existing dwelling unit complete with kitchen, bath plumbing and electricity connection. The Applicant states that the conversion of the basement to an additional unit was done prior to their purchase of the property in 2019. |
| Historic District | N/A |
| Adjacent Properties | The adjacent properties are residential rowhouses. |
| Surrounding Neighborhood Character | The surrounding neighborhood is primarily residential rowhomes with some smaller apartment properties nearby. Square 2850 also fronts on Sherman Avenue to the east, where there are a mix of residential unit types within the RF-1 District. |



III. PROJECT DESCRIPTION IN BRIEF

This application is a request for retroactive zoning relief to allow retention of the existing 3-unit apartment house in the RF-1 zone. The building currently has three separate residential dwelling units¹ that were in existence well prior to the current owners purchasing the property in March 2019. Based on the previous building permits and anecdotal evidence from neighbors, the conversion appears to have been done in the 1980's.

The Applicants propose no changes to the building's footprint as part of this application, and no changes to the layout of the three units are proposed beyond interior renovations to each unit. The Applicants are requesting zoning relief to acquire a Certificate of Occupancy to legalize the existing situation and allow renovation of the interior of the units, which will be rented. The applicants intend to occupy one of the units.

¹ A dwelling unit is defined as: One or more habitable rooms comprising complete independent living facilities for one or more persons and including within those rooms permanent provisions for living, sleeping, eating, cooking and sanitation (**B§ 100.2**).

IV. ZONING REQUIREMENTS

| RF-1 | Regulation | Existing | Proposed | Relief |
|-----------------------|---|--|------------------|-------------------------|
| Height E § 303 | 35 feet | 34 feet 9 inches | No change | None required |
| Lot Area E § 201 | 900 SF per unit 2,700 SF (for 3 units) | About 488 SF per unit; 1,465 SF total | No change | Relief Requested |
| Lot Occupancy E § 304 | 60% | 84% | No change | Existing non-conformity |
| Rear Yard E § 306 | 20 feet | 17.25 feet | No change | Existing non-conformity |
| Parking C § 701.5 | 1 space per 2 units | None | 2 compact 8 x 16 | Relief Requested |

V. OFFICE OF PLANNING ANALYSIS

A. Special Exception

Special Exception Relief from Subtitle U § 320.2 - conversion of an existing residential building to a 3-unit apartment house:

320.2 Conversion of an existing residential building existing prior to May 12, 1958, to an apartment house shall be permitted as a special exception in an RF-1, RF-2, or RF-3 zone if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the following conditions:

(a) The maximum height of the residential building and any additions thereto shall not exceed thirty-five feet (35 ft.), except that the Board of Zoning Adjustment may grant a special exception from this limit to a maximum height of forty feet (40 ft.) provided the additional five feet (5 ft.) is consistent with Subtitle U §§ 320.2(f) through 320.2(i);

The building is within the maximum height limit of 35 feet for this zone and no additions are proposed to the exterior.

(b) The fourth (4th) dwelling unit and every additional even number dwelling unit thereafter shall be subject to the requirements of Subtitle C, Chapter 10, Inclusionary Zoning, including the set aside requirement set forth at Subtitle C § 1003.6;

The Applicants are proposing three units and IZ would not be applicable.

(c) There must be an existing residential building on the property at the time of filing an application for a building permit;

The building on the subject property is residential.

(d) There shall be a minimum of nine hundred square feet (900 sq. ft.) of land area per dwelling unit;

The subject property is 1,465 square feet and the Applicants are requesting a variance from this regulation; see Section V.B. of this report.

(e) An addition shall not extend further than ten feet (10 ft.) past the furthest rear wall of any principal residential building on an adjacent property;

(f) Any addition, including a roof structure or penthouse, shall not block or impede the functioning of a chimney or other external vent on an adjacent property required by any municipal code;

(g) Any addition, including a roof structure or penthouse, shall not interfere with the operation of an existing or permitted solar energy system on an adjacent property, as evidenced through a shadow or shade study, or other reputable study acceptable to the Board of Zoning Adjustment;

(h) A roof top architectural element original to the house such as a turret, tower, or dormers shall not be removed or significantly altered, including changing its shape or increasing its height, elevation, or size;

The Applicants do not propose any changes or additions to the exterior of the building.

(i) Any addition shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:

(1) The light and air available to neighboring properties shall not be unduly affected;

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

(3) The conversion and any associated additions, 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 or alley;

The Applicants do not propose any additions to the building, or the addition of units to the interior beyond what has existing for many years.

(j) In demonstrating compliance with Subtitle U § 320.2(i) the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the conversion and any associated addition to adjacent buildings and views from public ways;

The Applicants have provided adequate plans and photographs.

(k) 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 or nearby properties, or to maintain the general character of a block;

No special treatments are proposed by OP.

(l) The Board of Zoning Adjustment may modify or waive not more than three (3) of the requirements specified in Subtitle U §§ 320.2(e) through § 320.2(h) provided, that any modification or waiver granted pursuant to this section shall not be in conflict with Subtitle U § 320.2(i); and

The Applicants have not requested any waivers from these conditions but have requested a variance from the 900 square foot per unit requirement found in Section 320.2(d) (see the following Section V. B.).

B. Variance

Variance relief from Subtitle U § 320.2(d) - required 900 square feet of land area per dwelling unit in an apartment house:

i. Exceptional Situation Resulting in a Practical Difficulty

The Applicants purchased the subject property in 2019 and at that time it already was a three-unit building. The property does not have the required 900 square feet per unit in land area for three units. The Applicants do not propose to make any physical/structural changes to the building. The three units have separate entrances and satisfy the requirements for separate dwelling units as interpreted by [DCRA](#) (Exhibit 14). If the Applicants were required to convert the building back to a single-family dwelling or flat to comply with the RF-1 regulations, they would be faced with substantial renovation and expense, as well as the loss of the rent they would collect for the third unit, which is part of their anticipated income, as submitted in their profit and loss analysis (Exhibit 15).

ii. No Substantial Detriment to the Public Good

The Applicants are not proposing any physical changes to the building and the current conditions, including the number of occupied units, would remain the same. Should the requested relief be granted, there would be no new impact on the neighbors in terms of light, air, density, or privacy. As such, the requested relief would not have a substantial detriment to the public good. Neighbors have written letters of support (Exhibits 32 to 37).

iii. No Substantial Harm to the Zoning Regulations

The RF-1 zoning regulations permit a conversion to an apartment house by special exception with a condition that there would be adequate land area (900 square feet) per residential dwelling unit. However, in this specific case, the three-unit apartment house has been in existence for many years, and no adverse impact on nearby residents has been shown. The relief would allow the property owners to acquire a valid Certificate of Occupancy for renovations and updating of the units.

Variance relief from Subtitle C § 712.3 minimum parking size

i. Exceptional Situation Resulting in a Practical Difficulty

The 18.75-foot wide lot has an existing rear yard of 17.25 feet and a lot occupancy of 84%. No changes are proposed to the building to reduce the building's size to create a required rear yard of minimum 20 feet. Therefore, the legal sized space of 9 x 19 feet would not be possible within the existing area of the rear yard. This creates an exceptional condition of the lot, which creates a practical difficulty in satisfying the parking size requirement of C § 712.3.

ii. No Substantial Detriment to the Public Good or Substantial Harm to the Regulations

The continued provision of two on-site parking spaces would be consistent with the Regulations and beneficial to the public good.

VI. COMMENTS OF OTHER DISTRICT AGENCIES

At the time of the staff report, no other District agency had submitted comments.

VII. COMMUNITY COMMENTS

The ANC 1B held its regularly scheduled meeting on September 12, 2019 and stated that there were no concerns with the application and supports the request (Exhibit 44).

Letters in support from neighbors are included in the record at Exhibits 32-37, 39, 40.