

**MEMORANDUM**

**TO:** District of Columbia Board of Zoning Adjustment  
**FROM:** Elisa Vitale, Case Manager  
*JL* Joel Lawson, Associate Director Development Review  
**DATE:** October 25, 2019  
**SUBJECT:** BZA Case 20138 - to allow an addition to and conversion of an existing accessory building to a second principal dwelling unit in the RF-2 zone at 1436 S Street NW

**I. RECOMMENDATION**

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

- E § 404.1, lot occupancy (60% maximum permitted; 70% existing; 70% proposed);
- E § 5003.1, accessory building footprint (greater of 450 square feet or 30% of required rear yard maximum permitted; 843 square feet existing; 515 square feet proposed for the upper addition);
- E § 5004.1, alley centerline setback (12 feet minimum required; 10 feet existing; 10 feet proposed); and
- C § 202.2, expansion of an existing non-conforming structure.

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

- U § 301.1(c), no expansion or addition to an accessory building to accommodate a dwelling unit except as a special exception.

**II. LOCATION AND SITE DESCRIPTION**

Address	1436 S Street NW
Applicant	Sullivan and Barros, attorney, on behalf of Joyce Cowan, owner
Legal Description	Square 207, Lot 49
Ward / ANC	2 / 2F
Zone	RF-2 - to provide for areas proximate to Dupont Circle predominantly developed with row houses with no more than two dwellings permitted by-right on the lot.
Lot Characteristics	The rectangular lot measures 19.58 feet in width and 140 feet in depth. The property is bounded by S Street NW to the north, a 20-foot improved public alley to the south, and adjoining lots to the east and west.

Existing Development	The property is improved with a two-story row building in single-family residential use and a one-story accessory building that functions as a garage.
Historic District	Greater Fourteenth Street Historic District
Adjacent Properties	The adjoining properties are residential row buildings in single-family use.
Surrounding Neighborhood Character	The surrounding neighborhood is residential in character with apartment buildings in the RA-2 zone to the south.
Proposed Development	The Applicant is proposing to construct a second story on the accessory building. The second floor of the accessory building would function as a second dwelling unit on the property and the first floor would continue to function as a garage.

**III. ZONING REQUIREMENTS and RELIEF REQUESTED**

<b>RF-2 Zone</b>	<b>Regulation</b>	<b>Existing</b>	<b>Proposed<sup>1</sup></b>	<b>Relief:</b>
Height E § 403	35 ft. max./3 stories	20 ft. 9.75 in.	20 ft. 9.75 in.	None required
Lot Width E § 201	18 ft. min.	19.58 ft.	19.58 ft.	None required
Lot Area E § 201	1,800 sq. ft. min.	2,742 sq. ft.	2,742 sq. ft.	None required
Lot Occupancy E § 404	60% max.	70%	70%	Special Exception
Front Setback E § 405	Within the range of existing front setbacks	Within range	Within range	None required
Rear Yard E § 406	20 ft. min.	26.77 ft.	26.77 ft.	None required
Side Yard E § 207	None required, but 5 ft. min. if provided	N/A	N/A	None required
Parking C § 701	1 per 2 dwelling units	1 space	1 space	None required
Accessory Building Height E § 5002	20 ft. max/2 stories	13 ft. 8.5 in./1 story	19 ft. 11.5 in./2 stories	None required
Accessory Building Lot Occupancy E § 5003	Greater of 30% of required rear yard area or 450 sq. ft.	843 sq. ft.	843 sq. ft.; 515 sq. ft. for upper addition	Special Exception
Accessory Building Rear Yard E § 5004	12 ft. from alley centerline	10 ft.	10 ft.	Special Exception
Accessory Building Side Yard E § 5005	None required	N/A	N/A	None required

**IV. ANALYSIS**

The property, as it exists is nonconforming with respect to lot occupancy, accessory building footprint, and alley centerline setback. Therefore, the Applicant is requesting special exception relief pursuant to E § 5201.

<sup>1</sup> Information provided by Applicant, Exhibit 4.

A dwelling unit in an accessory building is permitted as a matter-of-right, subject to conditions; however, the expansion of an accessory building for residential purposes is only permitted by special exception and remains subject to the matter-of-right conditions of U § 301.1.

**Subtitle D § 5201 Addition to a Building or Accessory Structure**

*5201.1 The Board of Zoning Adjustment may approve as a special exception in the RF 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 Applicant seeks a special exception for lot occupancy, accessory building footprint, and alley centerline setback.

*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 subject property is improved with a residential row building and an accessory building that is proposed to be enlarged.

*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 Applicant proposes to construct an upper addition to the existing accessory structure. The footprint of the existing accessory structure currently exceeds 450 square feet (843 square feet) and the proposed second story addition would measure approximately 515 square feet in area. The proposed second floor addition, while larger than the maximum permitted area of 450 square feet, should not result in significant light and air impacts to neighboring properties, as the area of any additional shadow cast would fall largely on the adjacent parking pad and adjacent garage. Furthermore, the existing buildings at 1717 and 1715 15<sup>th</sup> Street NW likely already cause significant shadow on the area in question, and the expansion of the accessory building should not noticeably change the existing condition. (Exhibit 31B, October 18, 2019)

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

The privacy of nearby properties should not be unduly impacted. Windows are provided only on the north and south walls, which face the alley and the back yard of the subject property, respectively. No windows are proposed on the side elevations. (Exhibit 31A, October 16, 2019)

- (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 expansion of the garage would not be visible from the street, and should not intrude on the character of the alley, which is highly varied. Several properties in the north half of Square 207 have accessory buildings, at least three of which are two stories tall. (Exhibit 5, August 21, 2019) The alley also has apartment buildings and parking facing it. The Historic Preservation Office recommended that the Historic Preservation Review Board find the proposed addition, in concept, to be compatible with the character of the 14<sup>th</sup> Street Historic District. Therefore, the proposed second story addition to the existing accessory building should not visually intrude on the character, scale and pattern of buildings along the alley.

- (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 application includes plans, elevations and photographs to represent the proposed addition. (Exhibits 5, 6, and 31A)

- (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%).*

The application proposes a lot occupancy of 70%, which is consistent with the existing lot occupancy.

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 recommends no special treatment at this time.

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

The proposed use of the property as a flat is a permitted use in the zone. The expansion of the accessory building to house a second principal dwelling unit is permitted by special exception, which the applicant has requested.

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 proposed addition would not be nonconforming for height or number of stories. The accessory building would measure 19 feet 11.5 inches and two stories in height.

**Subtitle U § 301, Matter-of-Right Uses (RF)**

*301.1 The following uses shall be permitted as a matter of right in an RF zone subject to any applicable conditions:*

*[...]*

*(c) A permitted principal dwelling unit within an accessory building subject to the following conditions of:*

*(a) The accessory building was in existence on January 1, 2013;*

According to the Applicant the garage was constructed prior to 2013 and was renovated in 2012.

*(b) No expansion or addition may be made to the accessory building to accommodate an apartment except as a special exception;*

The Applicant proposes to expand the existing accessory building and therefore requests a special exception. Please refer to the general special exception criteria discussed further below.

*(c) There shall be permanent access to the accessory building dwelling from a dedicated and improved right of way; and*

The improved public alley provides permanent access.

*(d) Permanent access shall be provided by one (1) of the following:*

*(1) An easement for a permanent passage, open to the sky, no narrower than eight feet (8 ft.) in width, and extending from the accessory building to a public street through a side setback recorded in the land records of the District of Columbia;*

*(2) Through an improved public alley with a minimum width of twenty-four feet (24 ft.) that connects to a public street; or*

*(3) On an improved alley no less than fifteen feet (15 ft.) in width and within a distance of three hundred (300) linear feet of a public street;*

The alley is 20 feet wide and within approximately 80 feet of the intersection with 15<sup>th</sup> Street NW.

*(d) An accessory building that houses a principal dwelling unit shall not have a roof deck;*

The proposed dwelling would not have a roof deck

*(e) 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;*

The accessory building was constructed prior to January 1, 2013.

*(f) An accessory building that houses a principal dwelling unit shall not be used simultaneously for any accessory use other than as a private*

*vehicle garage for a dwelling unit on the lot, storage, or as an artist studio; and*

The first floor of the accessory building would continue to be used as a private vehicle garage.

- (g) *Any proposed expansion of an accessory building for residential purposes shall be permitted only as a special exception approval pursuant to Subtitle X, and shall be evaluated against the standards of this section.*

The Applicant has requested the required special exception. See analysis below.

#### **Subtitle X § 901, Special Exception Review Standards**

- (a) *[The special exception] Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;*

The Applicant has applied for a special exception to expand an existing accessory building for the purposes of locating a permitted principal dwelling unit within the accessory building (U § 301.1(c)). In general, the proposed use is in conformance with the intent of the Regulations. The RF-2 zone provides “for areas proximate to Dupont Circle predominantly developed with row houses within which no more than two (2) dwellings are permitted.” Furthermore, “The RF-2 zone permits a maximum of two (2) dwelling units which may both be located within the principal structure or one (1) dwelling unit each may be located within the principal structure and an accessory structure.”

- (b) *[The special exception] Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps;*

The proposed expansion of the accessory building to accommodate a dwelling unit should not affect adversely the use of neighboring properties. The alley is bordered by dense development on all sides, including apartment buildings. A single, 515 square foot dwelling unit should not add significantly to traffic, noise or light in the alley. Immediately adjacent to the accessory building is a parking pad to the east and another garage to the west, and across the alley is a multi-family residential use.

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

Comments from other District agencies had not been provided at the time this report was written.

#### **VI. COMMUNITY COMMENTS TO DATE**

ANC 2F voted unanimously to support the application at its September 4, 2019 public meeting (Exhibit 28).

Three letters in support were entered in the record at Exhibits 29, 30, and 32.

Attachment: Location Map



Figure 1: Location Map, 1436 S Street NW