

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Brandice Elliott, Case Manager
JL Joel Lawson, Associate Director Development Review
DATE: November 8, 2019

SUBJECT: BZA Case 20143 (1117 Morse Street, N.E.) to permit the conversion of an existing row structure into a flat, and to construct an accessory structure to be used as a third principal dwelling unit in the RF-1 zone.

I. OFFICE OF PLANNING RECOMMENDATION

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

- Conversion of an existing residential building to an apartment house, Subtitle U § 320.2, pursuant to Subtitle X § 900 (one unit existing; two units permitted; three units proposed);
- Principal dwelling unit within an accessory building, Subtitle U § 301.1(e), pursuant to Subtitle U § 301.1(e) (a new accessory building may not be used as or converted to a dwelling unit for five years after constructed; less than five years proposed); and
- Detached structure lot occupancy, Subtitle E § 5003.1 pursuant to Subtitle E § 5201 (450 square feet maximum; 558.9 square feet proposed).

II. LOCATION AND SITE DESCRIPTION

Address	1114 Morse Street, N.E.
Applicant	Sullivan & Barros, LLP for Grand Realty LLC
Legal Description	Square 4065, Lot 104
Ward, ANC	Ward 5, ANC 5D
Zone	RF-1 provides for areas predominantly developed with row structures on small lots within which two dwelling units are permitted by right, and additional units may be permitted upon the approval of a special exception.
Historic District	None
Lot Characteristics	The rectangular lot is 2,795 square feet in area, with 19.23-feet of frontage along Morse Street. The rear, also 19.23-feet wide, abuts a 20-foot-wide public alley.
Existing Development	The lot is currently developed with a 27-foot high, two story attached dwelling with a basement.

Adjacent Properties	To the north, east, and west are existing two-story row buildings. To the south, across the public alley, are two-story buildings facing Florida Avenue, accommodating residential and nonresidential uses.
Surrounding Neighborhood Character	The surrounding neighborhood character is predominantly moderate density residential, consisting of a mix of row dwellings and small apartment houses. Development along Florida Avenue includes some institutional, retail, and neighborhood service uses. Gallaudet University is half a block to the west.
Proposed Development	The applicant proposes to add two residential units to the property. The existing row building would have two units, and the proposed detached structure would accommodate one unit. The row building would include a third story addition set back six-feet from the front façade and a 6.75-foot-deep enclosed rear addition and a deck. The proposed detached structure would generally comply with development regulations, with the exception of accessory building lot occupancy, for which relief has been requested; the site as a whole would continue to conform to lot occupancy..

III. ZONING REQUIREMENTS and RELIEF REQUESTED

Zone RF-1	Regulation	Existing	Proposed	Relief
Lot Width E § 201	18 ft.	19.23 ft.	No change	None required
Lot Area E § 201	1,800 sq. ft. min.	2,795 sq. ft.	No change	None required
Pervious Surface E § 204	20%	Not provided	Not provided	None requested
Height E § 303	35 ft. max.	27 ft.	34.75 ft.	None required
Lot Occupancy E § 304	60% max.	30.2%	58.6%	None required
Accessory Building Lot Occupancy E § 5003	450 sq. ft. or 30% of required rear yard area max.	--	558.59 sq. ft.	Required
Front Setback E § 305	Within range of existing front setbacks (0-7 ft.)	Not provided	No change	None requested
Rear Yard E § 306	20 ft. min.	92 ft.	20 ft.	None required
Accessory Building Height E § 5002	20 ft./2stories max.	--	18.5 ft./2 stories	None required
Accessory Building Rear Yard E § 5004	12 ft. from alley center line	--	23.5 ft.	None required
Accessory Building Side Yard E § 5005	None required	--	5 ft. – west 0 ft. – east	None required

Zone RF-1	Regulation	Existing	Proposed	Relief
Principal Dwelling Unit in Accessory Building U § 301.1(e)	Shall not be used as a dwelling unit for 5 years after building permit approved if it is located within a required setback	--	Accessory building will be purpose built for principal dwelling and immediately occupied as dwelling upon completion of construction	Required
Conversion to Apartment House U § 320.2	3 or more units by special exception, with 900 sq. ft. of lot area per unit	1 unit	3 units (931.67 sq. ft. per unit)	Required
Roof Top Elements U § 320.2(h)	Shall not remove or alter original rooftop elements	Metal awnings over porch and windows	Remove metal awnings	Waiver requested

IV. OFFICE OF PLANNING ANALYSIS

a. Special Exception Relief from Subtitle U § 320.2, Conversion of an existing residential building existing prior to May 12, 1958, to an apartment house in the RF-1 zone.

320.2 *Conversion of an existing residential building existing prior to May 12, 1958, to an apartment house 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 applicant proposes to construct a third story addition that will increase the height of the dwelling from 27-feet to 34.75-feet, which is within the limit prescribed by this section. The proposed accessory building would have a height of 18.5-feet, which is less than the 20-feet permitted.

(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 proposed conversion consists of three units, so this provision does not apply.

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

The lot is currently developed with an attached residential building.

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

Based on the lot size of 2,795 square feet, there would be 931.67 square feet of land area per dwelling unit, which exceeds the amount required for this conversion.

- (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;*

The proposed rear addition would extend 6.75-feet past the furthest rear wall of the adjoining principal residences, which is less than the 10-feet permitted by this section.

- (f) *Any addition, including a roof structure or penthouse, shall not block or impede the functioning of a chimney or other external vent compliant with any District of Columbia municipal code on an adjacent property. A chimney or other external vent must be existing and operative at the date of the building permit application for the addition;*

The applicant has provided that the proposed third story addition would not block or impede the function of a chimney or other external vent on adjacent properties.

- (g) *Any addition, including a roof structure or penthouse, shall not significantly interfere with the operation of an existing solar energy system of at least 2kW on an adjacent property unless agreed to by the owner of the adjacent solar energy system...*

OP has found no evidence of an existing or permitted solar energy system on adjacent properties.

- (h) *A roof top architectural element original to the house such as cornices, porch roofs, a turret, tower, or dormers shall not be removed or significantly altered, including shifting its location, changing its shape or increasing its height, elevation, or size. For interior lots, not including through lots, the roof top architectural elements shall not include identified roof top architectural elements facing the structure's rear lot line. For all other lots, the roof top architectural elements shall include identified rooftop architectural elements on all sides of the structure;*

The applicant has requested a waiver to remove an existing metal awning and porch from the front façade of the row building. As these structures are not original to the building, the waiver is not necessary. In addition, the proposed third story would be set back six-feet from the front façade and would not impact existing building features.

- (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;*

The light and air available to neighboring properties should not be unduly affected. The rear addition would extend 6.75-feet beyond the rear wall of adjacent properties, which is less than the ten-feet permitted by right. The third story addition would increase the height of the building to 34.75-feet, less than the 35-feet permitted, and would be set back six-feet from the front façade. The design and height of the third story should reduce impact to light and air. The applicant has provided a shadow study to the record at Exhibit 35B demonstrating that the proposed addition and accessory building should not significantly impact light and air to adjacent properties beyond the existing condition, and would not result in an impact greater than a by-right addition.

The applicant also proposes to construct an accessory building that would consist of one dwelling unit. The building would be 18.5-feet high, which is less than the 20-feet permitted by right, and as a result, should have little impact on light and air to neighboring properties.

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

The rear and third story additions to the existing building would not include windows on the side elevations. In addition, there are no windows proposed on the side elevations of the accessory building, and there would not be a roof deck. As a result, the privacy of use and enjoyment of neighboring properties should not be unduly compromised.

- (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 third story addition on the row building would be set back six-feet from the front façade, reducing its visibility from the street. The third story would be compatible with the existing character, scale and pattern of houses along Morse Street, as there are a variety of building heights along the block.

Because there are no side yards, the proposed rear addition and accessory building should be minimally visible from Morse Street, but would be visible from the public alley. There are accessory structures in the alley closer to the eastern end of the block, towards Montello Avenue, and none of those structures appear to be dwellings. The alley is mixed use in nature, as it also serves property to the south with frontage on Florida Avenue, including residential, institutional, retail and restaurant uses.

- (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 applicant has provided plans, photographs and elevations sufficient to represent the relationship of the conversion (Exhibits 5 and 6).

- (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;*

The Office of Planning does not recommend special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features of the proposal.

- (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 applicant has requested one waiver from Subtitle U § 320.2(h) for the removal of roof top architectural elements. The existing front façade of the row building includes metal awnings that would be removed in this proposal. Given that the awnings are not original elements to the building, this provision does not appear to apply.

b. Special Exception Relief from Subtitle U § 301.1(e), Principal dwelling unit within an accessory building.

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:*

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

The accessory building has not been constructed. The applicant has requested special exception relief to allow for the construction of an accessory building that would be used as a principal dwelling unit.

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

This provision does not apply as the accessory building has not yet been constructed.

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

Permanent access to the accessory building dwelling would be provided from a 20-foot-wide public alley. There would be an entrance at the rear of the dwelling, adjacent to the alley, and an entrance at the front of the dwelling, along the north building elevation, that would be accessible from a side yard.

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

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

Permanent access would be provided from a 20-foot-wide public alley and the site is within approximately 200-feet of West Virginia Avenue, a public street.

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

A roof deck is not proposed on the accessory building.

(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 applicant has requested special exception relief from this section, as the accessory building is not yet constructed.

(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 architectural drawings at Exhibit 6 include floor plans for the accessory building demonstrating that it would only be used to house a principal dwelling consisting of two bedrooms. No other uses, including a garage, would be included in the building.

(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.

This section does not apply, as the accessory building is not yet constructed.

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

The RF-1 zone is a residential zone that provides for areas predominantly developed with row houses, and anticipates dwelling units being located with an accessory building. As a result, the proposed accessory building that would house the principal dwelling would be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps.

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

The proposed accessory building, with the exception of its lot occupancy, would comply with development standards. The building would be 18.5 feet in height and would provide a rear yard of 23.5 feet, where a rear yard of 12-feet from the alley centerline is required. While the structure would be approximately 100 square feet larger than permitted matter-of-right, the reduced height of the structure should limit potential impacts on adjacent properties.

c. 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 applicant has requested relief to allow a proposed accessory building to exceed its permitted lot occupancy, consistent with this section.

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 applicant has requested relief for a new accessory structure that is accessory to an existing row building, consistent with this section.

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 have a height of 18.5 feet, which is less than the maximum permitted height of 20-feet. The reduced height of the structure should minimize the impact of shading on adjacent properties. The applicant has provided a shadow study at Exhibit 35B demonstrating that the proposed accessory building should not significantly impact light and air to neighboring properties.

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

The proposed accessory building should not unduly compromise the privacy of use and enjoyment of neighboring properties, as it would be located at the rear of the property, would not have windows along the side building elevations, and would not include a roof deck.

(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;

Given that the proposed accessory building would be located behind a row building, it should not substantially visually intrude upon the character, scale, and pattern of housing along Morse Street. The accessory building would be visible from the public alley. As discussed elsewhere in this report, the alley includes some accessory buildings at the east end of the block, although they do not appear to have principal dwellings. The public alley supports residential uses along Morse Street as well as mixed-uses, including institutional, retail, restaurant and residential uses along Florida Avenue. Because of the existing structures along the alley and its mixed-use character, the proposed accessory building should not substantially visually intrude upon the character, scale, and pattern of houses along the public 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 applicant has provided graphical representations, including plans and photographs sufficient to represent the relationship of the proposed accessory building to adjacent buildings and views from public ways (Exhibit 6).

(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 overall lot occupancy for the property, including the existing row building and proposed accessory building, would be 58.62%, which is less than the maximum of 70%.

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.

The Office of Planning does not recommend 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.

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

The proposed accessory building would house a principal dwelling, which is a permitted use in the RF-1 zone.

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 accessory building would be 18.5-feet high and consist of two stories, consistent with the development standards.

V. COMMENTS OF OTHER DISTRICT AGENCIES

As of the date of this writing, comments of other District Agencies had not been provided to the record.

VI. COMMUNITY COMMENTS TO DATE

As of the date of this writing, three letters in opposition had been submitted to the record (Exhibits 30, 31 and 33). One request for party status in opposition had been filed to the record at Exhibit 39. Comments from the ANC had not been provided to the record.

Location Map

