

Burden of Proof Statement
5200-4th Street, NW
Request for exception/variance

Rule 253.1 states that “One (1) accessory apartment may be established in an R zone, subject to the provisions of this section.”

Rule 253.5 states, “Either the principal dwelling or accessory apartment unit shall be owner-occupied for the duration of the accessory apartment use.

Rule 253.10 (a) states, “The owner-occupancy requirement of Subtitle U 253.5 shall not be waived in any R zones:

I am applying for a use variance from U.253.5 to use my single-family home at 5200-4th Street, NW 20011 as having an accessory apartment because I have plans to return to live in the home in the near future. Currently, I live in South Carolina because I have caretaking responsibility for my 95-year-old aunt. We hope to return to D.C. when I no longer have those responsibilities. At that time, we plan to live in the house, but still rent out part. Until that time, I hope to keep the house rented as is to two families.

Subtitle X 1002.1 (b) of the Zoning Regulations states that the Board is authorized to grant a use variance where it finds that:

1. The property is affected by exceptional size, shape or topography or other extraordinary or exceptional situation or condition:
2. The owner would encounter practical difficulties if the zoning regulations were strictly applied or exceptional and undue hardship; and
3. The variance would not cause substantial detriment to the public good and would not substantially impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

See below for an explanation of how my property meets each of the requirements for the variance.

1. The Property is Affected by Extraordinary or Exceptional Situation or Condition.

The house is located on a corner lot with the main entrance on 4th Street and the lower/basement level entrance on Hamilton Street. The lower level entrance is designed as to possibly give the appear as the entrance to a separate house.

The house has been rented to two (2) families for over 30 years. When I bought the house, the owner indicated that the basement could be rented as a separate unit and even had a separate address, in keeping with the neighborhood appearance. I understand that the separate address could no longer be found, but it did have one at one time.

2. Strict Application Would Result in a Practical Difficulty to the Property Owner.

To be unable to rent the house to two families will be an undue hardship as I would have to evict one or both of the tenants, both of which have called this address home for approximately

9 years. I cannot move to DC at this time as I am the only family member in Aiken, SC to provide assistance to my aunt. I would also have to spend time and money to come to DC and stay in DC to oversee the major changes necessary to restore the property to a single-family home, and then change it back when I am ready to move into the house. This could be costly. I have kept the rent low for the area, helping to ensure affordable housing to DC residents. I have not raised the rent since the tenants moved in. Just this past year I have incurred major expense to separate the electricity for the house so that each tenant now has to pay their own electric bill. Thankfully, this will be helpful when I move back to the house in DC.

3. The Variance Would Not Cause Substantial Detriment to the Public Good nor Substantial Impairment to the Intent, Purpose and Integrity of the Zone Plan.

To have the house continue being rented to two families until I move back will not negatively impact the zoning district or the neighboring properties. Both the basement and upstairs units have had very stable tenants. The current tenants have lived there for approximately 9 years. Thus, maintaining the stable neighborhood objective. Likewise, the previous tenants were there approximately the same amount of time if not more. Tenants in both units are small families, again in keeping with the zoning objectives. Although my house is in keeping with the single-family home appearance and concept, there are apartments at the end of the 4th street block as well as on the next block on 4th Street. Granting this variance will not adversely affect the use of neighboring properties and will not be of detriment to the public good – it doesn't increase traffic, noise or lighting. It looks like other houses in the neighborhood.

My home has been rented to two families almost continuously since I purchased it in 1981. At first, I lived upstairs and rented out the basement. When I moved, I rented out upstairs as well, so two families rented the house. During this time, I have never to my knowledge had a complaint from my neighbors.