

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Brandice Elliott, Development Review Specialist
JL Joel Lawson, Associate Director Development Review

DATE: April 1, 2021

SUBJECT: BZA Case 20382 - request for special exception relief pursuant to Subtitle E § 5201.1 to allow a third story addition and roof deck to an existing two-story flat, and a second story addition to an accessory detached garage.

I. RECOMMENDATION

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

- Lot Occupancy, E § 304.1 (60% maximum, 67.2% existing; 69.8% proposed); and

II. LOCATION AND SITE DESCRIPTION

| | |
|-------------------------------------|---|
| Address: | 308 11 th Street, N.E. |
| Applicant: | Sullivan & Barros, LLP for Haider Haimus and Jessica Bachay |
| Legal Description: | Square 963, Lot 68 |
| Ward / ANC: | Ward 6, ANC 6A |
| Zone: | RF-1 (Residential Flat Zone) allows two dwelling units to be located within the principal structure or one each in the principal structure and an accessory structure. |
| Lot Characteristics: | The rectangular interior lot has 1,711 square feet of area and 16.16-feet of frontage along 11 th Street. The rear of the lot, also 16.16-feet in width, abuts a 10-foot wide public alley. |
| Existing Development: | The lot is currently developed with a flat and a single-story accessory building. |
| Adjacent Properties: | The subject property abuts row buildings to the north and south. To the east, across 11 th Street, are row buildings. To the west, across the public alley, are row buildings. |
| Surrounding Neighborhood Character: | The surrounding neighborhood character is moderate density residential, consisting primarily of row buildings and apartment houses. |
| Proposed Development: | The applicant proposes a second-story addition to an existing accessory building, increasing the building height to a zoning conforming 20-feet. The rear wall of the accessory building would be reconstructed and extended toward the principal building, increasing the length of the building by approximately three feet. The proposed expansion would |



| | |
|--|---|
| | <p>increase the footprint of the accessory building by a total of 45.5 square feet in area. Parking would be provided on the ground floor and the second story would include an office space and bathroom. The applicant has requested lot occupancy relief for this addition.</p> <p>The also applicant proposes to construct a third-story addition and roof deck on top of the existing row building. The roof deck would be set back 11.58-feet from the front façade and the third story living space would be set back 29.33-feet from the front façade. The overall building height would be 35-feet. This addition would comply with the development standards in the RF-1 zone and does not require relief.</p> <p>Separate review by the Historic Preservation Review Board is required because the property is located in the Capitol Hill Historic District. The applicant should coordinate that review.</p> |
|--|---|

III. ZONING REQUIREMENTS and RELIEF REQUESTED

| Zone – RF-1 | Regulation | Existing | Proposed | Relief |
|--|--|---------------------------------|------------------------|------------------------|
| Lot Width E § 201 | 18 ft. min. | 16.16 ft. | No change | Existing nonconforming |
| Lot Area E § 201 | 1,800 sq. ft. min. | 1,711 sq. ft. | No change | Existing nonconforming |
| Pervious Surface E § 204 | 20% min. | Not provided | Not provided | None requested |
| Rear Wall Extension E §205 | Rear addition may not extend more than 10 ft. beyond rear wall of any adjoining building | N/A | No change | None required |
| Alteration of Architectural Element E §206 | Original architectural elements shall not be removed or significantly altered | Existing porch and roof element | No change | None required |
| Height E § 303 | 35 ft. max. | 29.58 ft. | 35 ft. | None required |
| Lot Occupancy E § 304 | 60% max.; 70% by sp.ex. | 67.2% | 69.8% | Required |
| Front Setback E § 305 | Within range of existing front setbacks (0 ft.) | Not provided | Not provided | None requested |
| Accessory Building Height E §5002 | 22 ft. max. | 10.33 ft. | 20 ft. | None required |
| Accessory Building Lot Occupancy E §5003 | 30% of required rear yard or 450 sq. ft. | Not provided | 374.6 sq. ft. | None required |
| Accessory Building Rear Yard E §5004 | 7.5 ft. from center line of alley | 8.3 ft. (first story) | 8.3 ft. (second story) | None required |

IV. ANALYSIS

Subtitle E Chapter 5201 ADDITION TO A BUILDING OR ACCESSORY STRUCTURE

5201.1 & 5201.3 are not relevant to this application

5201.2 For a new or enlarged accessory structure to a residential building with one (1) principal dwelling unit on a non-alley lot, the Board of Zoning Adjustment may grant relief from the following development standards as a special exception, subject to the provisions of this section and the general special exception criteria at Subtitle X, Chapter 9:

- (a) Lot occupancy under Subtitle E § 5003 up to a maximum of seventy percent (70%) for all new and existing structures on the lot;*
- (b) Yards, including alley centerline setback;*
- (c) Courts; and*
- (d) Pervious surface.*

The applicant has requested lot occupancy relief for an expansion and a second story addition to an existing accessory building, consistent with this section.

5201.4 An applicant for special exception under this section shall demonstrate that the proposed addition, new building, 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 has provided a shadow study at Exhibit 45C that demonstrates the impact of the proposed second story addition at various times of the day during each season. The study illustrates the difference in shading that would occur between a matter-of-right addition and the proposed addition, which requires lot occupancy relief.

In general, the study demonstrates that there would be shadowing slightly beyond the matter-of-right limits to the property to the north at 310 11th Street. The dwelling to the south at 306 11th Street would not appear to experience additional shadowing as a result of the proposed second story addition. This property has a ten-foot-wide public alley located to its south that permits additional light and air to the property and a greater sense of openness. Additional shadowing of the alley would occur but would not appear to extend beyond the width of the alley.

The amount of shadowing that would impact the property at 310 11th Street would vary depending on the season and time of day. The greatest additional impact to the rear yard would appear to occur during spring and fall in the late afternoon. The degree of shading would change considerably during the day, with a larger portion of the rear yard being in sun earlier in the afternoon. Given that the property would not experience a significant amount of shading beyond a matter-of-right condition, the proposed lot occupancy relief should not result in undue adverse impacts.

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

The applicant proposes to extend the wall of the accessory building approximately three-feet towards the principal building; however, a rear yard of 20-feet in depth would be provided, compliant with

the Zoning Regulations. In addition, the second story would have a height of 20-feet, where 22-feet is permitted. The distance and height development standards are intended to regulate the impact of development on neighboring properties, including impacts on privacy. Since, in this case, the proposed second story addition complies with these regulations, the addition should not unduly compromise the privacy of use and enjoyment of neighboring properties more than a matter-of-right project.

The party in opposition has advised OP about concerns that the second story addition would impact the privacy of their properties. OP encourages the applicant to discuss these concerns with the neighbors prior to the hearing, and consider design or window treatment changes that could reduce visibility directly into neighboring properties.

(c) The proposed addition or accessory structure, together with the original building, or the new principal 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 street or alley frontage; and

The proposed second story addition on the accessory building would not be visible from 11th Street, as it would be located behind taller existing street fronting buildings with no side yards.

The addition would be visible from the alley, but provides all setback requirements and is two feet less in height than permitted. It would be one of few two-story structures in the alley. There is a two-story structure opposite the subject property in the alley. A four-story apartment house is located closer to the rear property line than adjacent buildings, but is not located on the alley. The addition would be constructed of brick, which is consistent with other structures in the alley. As a result, the proposed addition should not substantially visually intrude upon the character, scale and pattern of the structures along the street or alley frontage.

(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.

The applicant has provided graphical representations, including plans, photographs and elevations sufficient to represent the relationship of the proposed addition to the accessory building to adjacent buildings and views from public ways (Exhibits 5, 6, and 45C).

5201.5 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 does not recommend special treatment for the proposed accessory building addition, but, as noted above, encourages the applicant to discuss ways to minimize potential privacy impacts and would support their incorporation into the proposal.

5201.6 This section shall not be used to permit the introduction or expansion of a nonconforming

use, lot occupancy beyond what is authorized in this section, height, or number of stories, as a special exception.

The applicant is not proposing the introduction or expansion of a nonconforming use, lot occupancy beyond what is authorized in this section, height, or number of stories. The proposed use would be residential, consistent with the zone; the height would be less than what is permitted; and number of stories would be consistent with the development standards for the zone. The overall lot occupancy would be less than 70%, which is the maximum permitted by special exception.

V. OTHER DISTRICT AGENCIES

District Department of Transportation has submitted a report indicating that it has no objection to the approval of the application at Exhibit 33.

VI. ADVISORY NEIGHBORHOOD COMMISSION

As of the date of this report, the ANC has not provided comments to the record regarding the proposed relief.

VII. COMMUNITY COMMENTS TO DATE

The Parties in Opposition filed a joint statement at Exhibit 44 of the record.

Attachment: Location Map

Figure 1: Location Map

