

## SUPPLEMENTAL REPORT

**TO:** District of Columbia Board of Zoning Adjustment  
**FROM:** Anne Fothergill, Development Review Specialist  
Joel Lawson, Associate Director Development Review  
**DATE:** January 28, 2022  
**SUBJECT:** BZA Case 20603 to permit a one-story plus mezzanine rear addition at 1709 17<sup>th</sup> Street, N.W.

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### **I. BACKGROUND**

At Exhibit 55 is an OP report filed 1/21/2022 stating that OP could not make a recommendation at the time, based on the information provided to the record at the time. Since then, the Applicant has provided additional information and clarification into the record.

Of ongoing relevance is the status of improvements, currently under construction, to the adjacent, perpendicular building to the south at 1641 R Street NW, the building most potentially impacted by the rear addition proposed in this case. In BZA case 20042, additions to that building were approved by the BZA, including relatively minor additions to that building within a setback area along a portion of its north wall. Any windows on that R Street building wall would be approximately nine feet (8 ft. 11 in.) from the common lot line. However, based on plans in Exhibit 81, additional construction closer to the common lot line appears to have been undertaken, reducing the open area from a BZA-approved depth of 8 ft. 11 in. to a depth of about 4 ft. 10 in. In addition, the construction of substantial balconies for residential units in that building was also initiated, extending right up to the common lot line.

DCRA has, according to Applicant filings (Exhibit 59D and 83), indicated that this work was not approved; that permits have not been issued for the work undertaken, and that a “hold” has been placed on the permit application, for further review. Construction of the balconies has been halted.

The Applicant had originally requested relief from both rear yard (G § 605.2) and side yard (G§ 606.2) requirements; the application was subsequently amended to remove the request for side yard relief (see Exhibit 31).

### **II. OFFICE OF PLANNING RECOMMENDATION**

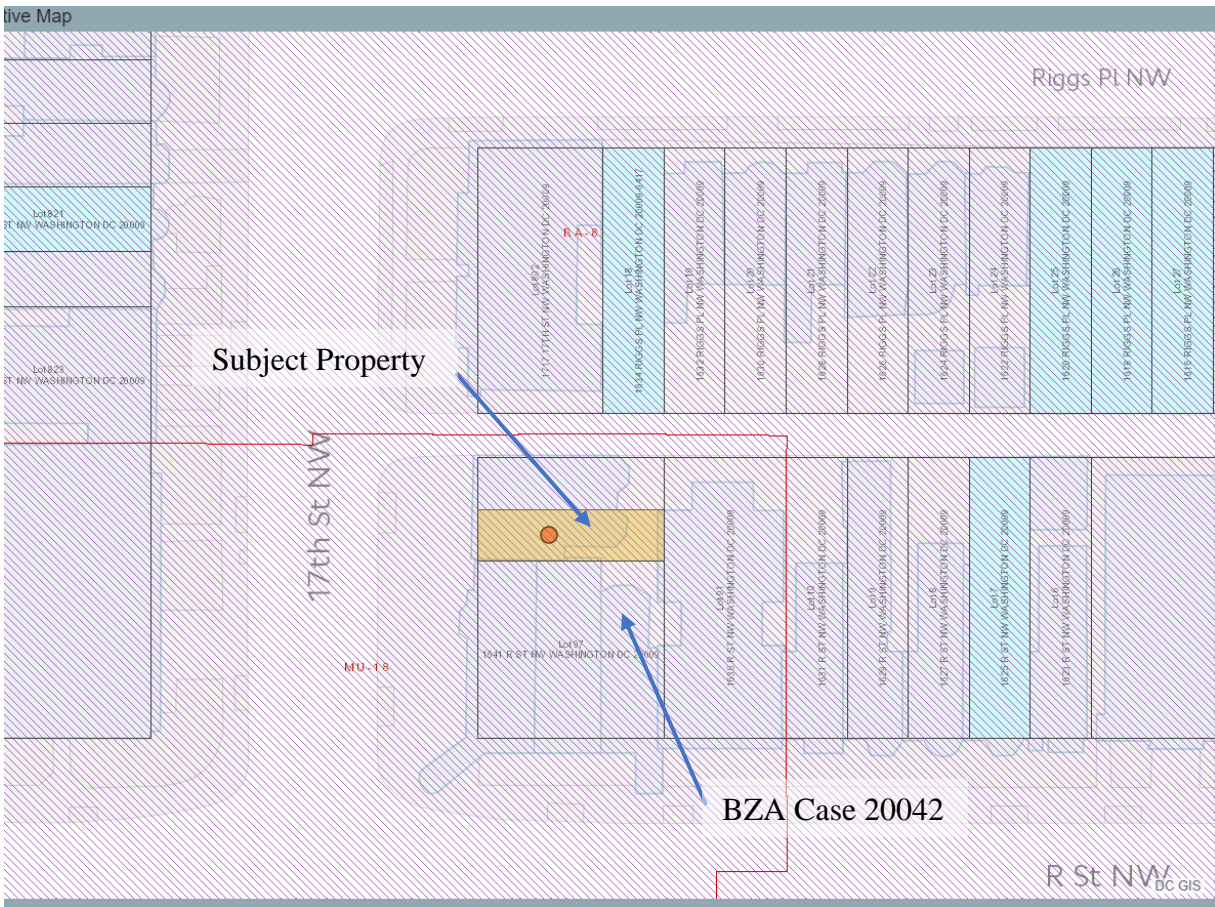
Based on the BZA-approved plans for Case No. 20042, OP would recommend approval of the following special exception relief pursuant to Subtitle X, Chapter 9:

- Rear Yard, Subtitle G § 605.2, pursuant to Subtitle G § 1201.1 (15 feet minimum required; 11.25 feet existing; 0 feet proposed)

The OP recommendation above is based on analysis of potential impacts to the adjacent property at 1641 R Street NW based on the BZA approved plans from Case No. 20042. OP would not be able to make a recommendation based on potential impacts to the adjacent property with the additions that were not approved by the BZA, at least until any DCRA investigation regarding the status of those additions is resolved (Exhibit 59D).

OP understands that there is opposition to the subject application. It is not yet clear how much of that opposition is based on the potential impacts of the applicant’s proposed rear addition on the adjacent building as it was approved by the BZA (i.e., with an approximately 9 foot setback), and how much is based on the impact on the additional additions that appear to have been constructed without BZA approval (i.e., including

the balconies with no setback). OP would, of course, support the applicant for the subject property and the owner of the adjacent lot working together to amicably address the situation.



### III. SITE AND PROJECT DESCRIPTION

Address	1709 17 <sup>th</sup> Street, N.W.
Legal Description	Square 0178, Lot 0087
Ward, ANC	Ward 2, ANC 2B
Zone	MU-18 – Dupont Circle Mixed Use Zone
Lot Characteristics	1,105 SF rectangular lot
Existing Development	3 story mixed use building with ground floor retail
Adjacent Properties	The adjoining property to the north on 17 <sup>th</sup> Street NW is a mixed-use building with ground floor retail. The adjacent property to the south is a mixed-use building fronting R Street NW that is currently undergoing renovation work and additions (BZA Case No. 20042). The abutting property at the rear property line is a multi-family residential building fronting R Street NW.
Surrounding Neighborhood Character	The surrounding area has a mix of residential, commercial, and mixed use buildings.

Proposed Development	The Applicant proposes to construct a one story plus mezzanine (22 feet in height) rear addition of approximately 500 square feet of commercial storage space. There would be no expansion of the residential space in the building. The Applicant revised the plans and is not requesting a new roof deck.
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**IV. ZONING REQUIREMENTS and RELIEF REQUESTED**

MU-18 Zone	Regulation	Existing	Proposed	Relief
Height G § 603.1	65 feet max.	42.5 feet	No change	None required
Lot Width	No requirement	17.5 feet	No change	None required
Lot Area	No requirement	1105 sq.ft.	No change	None required
Floor Area Ratio G § 602.1	3.5 max. 1.5 non-residential	1.6 0.8 non-residential	1.6 1.0 non-residential	None required
Lot Occupancy G § 604.1	80% residential 100% non-residential	83%	Residential - unchanged 100% non-residential	None required
Rear Yard G § 605.2	15 feet min.	11.25 feet	0 feet	<b>Relief requested</b>
Side Yard G § 606.2	5 feet min. if provided	4 feet	No change	Existing non-conformity
Parking C § 701.5	0 spaces	0 spaces	No change	None required

**V. OFFICE OF PLANNING ANALYSIS**

**A. Special Exception Relief from Subtitle G § 405.2, Rear Yard and G § 406.1, Side Yard**

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

The MU-18 zone is “intended to permit medium-density, compact mixed-use development with an emphasis on residential development.”

The proposed expansion is of the commercial lower levels of the building, where there is no lot occupancy restriction. The entire building would continue to be within the maximum permitted development standards for lot occupancy, building height, and FAR for the MU-18 zone.

Overall, the proposed rear addition would be for commercial and not for residential use and would be in harmony with the general purpose and intent of the zoning regulations which allow for rear yard relief by special exception, and the project meets the specific rear yard relief criteria of Subtitle G § 1201.1 as listed below.

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

While the neighboring properties would be in close proximity to the expanded lower level of this building, their use should not tend to be unduly affected adversely, although the upper level of the addition would be more likely have an impact than the proposed ground floor extension. The adjoining mixed-use building to the north should not be significantly adversely affected by the proposed rear addition which would have no windows and would be enclosing a small space that is currently paved. The owner of that building has indicated support for the proposal. The residential building that abuts this property to the east has a solid wall with no windows along the west side that faces the subject property, so also should not be adversely affected by this proposal.

As noted earlier in this report, the building at 1641 R Street NW is a larger mixed-use building with commercial space on the ground floor and residential units above. Based on the BZA-approved plans for improvements to that building, a setback of about nine feet from the common lot line would be provided. Given the height of the applicant's proposed addition, that it would not include access to its roof, and that it would not provide windows along its south wall, which would potentially impact privacy, the proposal should not have an undue adverse effect on the use of the neighboring property if it had been constructed according to the BZA-approved plans.

**iii. Would meet such special conditions as may be specified in this title?**

Subtitle G § 1201.1 provides additional special criteria for rear yard relief:

*Subtitle G § 1201.1 The Board of Zoning Adjustment may grant relief to the rear yard requirements of this subtitle as a special exception pursuant to Subtitle X, provided:*

- a. No apartment window shall be located within forty feet (40 ft.) directly in front of another building;***

There are no apartment windows proposed for this project. The lower level expansion of the building would be for commercial use only. The proposed addition has no windows.

- b. No office window shall be located within thirty feet (30 ft.) directly in front of another office window, nor eighteen (18 ft.) in front of a blank wall;***

The Applicant is not proposing windows on the building expansion.

- c. In buildings that are not parallel to the adjacent buildings, the angle of sight lines and the distance of penetration of sight lines into habitable rooms shall be considered in determining distances between windows and appropriate yards;***

The proposed expanded building does not include any windows.

- d. Provision shall be included for service functions, including parking and loading access and adequate loading areas; and***

The building is not required to provide any parking or loading. Trash and deliveries are currently handed through the front and the application states that there will be no change to those service functions as a result of the proposed addition.

- e. Upon receiving an application to waive rear yard requirements in the subject zone, the Board of Zoning Adjustment shall submit the application to the Office of Planning for coordination, review, report, and impact assessment, along with reviews in writing from all relevant District of Columbia departments and agencies, including the Department of Transportation, the District of Columbia Housing Authority and, if a historic district or historic landmark is involved, the Historic Preservation Office.***

This property is located within the Dupont Circle Historic District and the Applicant has consulted with the Historic Preservation Office staff about the project. While rear additions below the height of the existing building and not visible from the street are not typically of issue, HP review of this project has not been completed.

DDOT filed a report of no objection to the relief at Exhibit 56.

#### **VI. ANC COMMENTS**

The ANC filed a report in opposition to the zoning relief at Exhibit 49.

#### **VII. COMMUNITY COMMENTS TO DATE**

The adjoining neighbor to the north filed a letter of support in Exhibit 20 and additional letters of support are in Exhibits 25-28.

There are letters in opposition in Exhibits 23-24, 33-48, 50, and 54.

There is a request for party status in opposition, from the owner of the adjacent building to the south at 1637-1641 R Street NW, at Exhibit 51.