

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Jonathan Kirschenbaum, AICP, Development Review Specialist
JL Joel Lawson, Associate Director Development Review
DATE: April 21, 2023

SUBJECT: BZA Case 20862 (731 Kenyon Street, NW) to permit the conversion of a single household row dwelling to a three-unit apartment house.

I. OFFICE OF PLANNING RECOMMENDATION

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

- Apartment House Conversion, Subtitle U § 320.2, pursuant to Subtitle X § 901.2 (two units maximum permitted; one unit existing; three units proposed);
- Roof Top or Upper Floor Elements, Subtitle E § 206.1(a), pursuant to Subtitle E § 5207.1 (removal or significant alteration of an original roof top architectural element is prohibited; existing rooftop cornice is proposed to be removed and replaced with a new cornice in a different location); and
- Rear Wall Extension, Subtitle E § 205.5, pursuant to Subtitle E § 5201.1 (rear wall shall not extend 10 feet beyond the farthest rear wall of any adjoining residential building; proposed rear wall would extend more than 10 feet beyond the rear walls to the east and west).

The OP report and recommendation is based on the following conditions:

1. The roof top cornice above the second and third floors as shown on sheet BZA01 and BZA05 of the architectural plans in Exhibit 28 shall be built as shown. This condition would help mitigate any adverse impacts on character and scale along the street frontage and would result in a less visually intrusive design in connection with the relief requested for removal of roof top elements.
2. There shall be no decks, terraces, or recreation space on the roofs of the proposed units. This condition would help mitigate any adverse impacts on privacy of use and enjoyment of neighboring properties in connection with the relief requested for the apartment house conversion and building more than 10-feet beyond the existing rear of the property to the east.

II. LOCATION AND SITE DESCRIPTION

Address	731 Kenyon Street, NW
Applicant	Jason Cohen
Legal Description	Square 2892, Lot 37
Ward, ANC	1/1A
Zone	RF-1

Lot Characteristics	Rectangular shaped interior lot measuring 25 feet by 142 feet. The lot is bounded by Kenyon Street, NW to the south, residential properties to the east and west, and a 15-foot public alley to the north.
Existing Development	Two-story single household row dwelling.
Adjacent Properties	Semi-detached and attached residential buildings.
Surrounding Neighborhood Character	The surrounding neighborhood character is detached and semi-detached rowhouses houses, and low-rise apartment buildings.
Proposed Development	The applicant proposes to construct a rear enlargement and a third-floor addition to an existing two-story (plus cellar) row house, and to convert it from one to three dwelling units. Two parking spaces would be provided, accessed from the rear alley.

III. ZONING REQUIREMENTS and RELIEF REQUESTED

RF-1 Zone	Regulation	Existing	Proposed	Relief
Lot Width E § 201	18 ft. min.	25 ft.	No change	None Required
Lot Area E § 201	1,800 sq. ft. min.	3,563 sq. ft.	No change	None Required
Height E § 303	35 ft. max. / 3 stories	19 ft. / 2 stories	35 ft. / 3 stories	None Required
Lot Occupancy E § 304	60% max.; 70% by sp. ex.	18%	60%	None Required
Front Setback E § 305	Setback must be in range of existing front setbacks	Front setback is in range of existing front setbacks	No change	None required
Roof Top Architectural Element E § 206.1(a)	Removal or altering of roof top elements prohibited	Roof top cornice	Removal of existing roof top cornice and provision of new roof top cornices above proposed second and third floors	Special Exception
Rear Yard E § 306	20 ft. min.	102 ft.	20 ft.	None Required
Rear Wall Extension E § 205	Addition may not extend more than 10 ft. past farthest rear wall of any adjoining building	Existing rear wall does not extend beyond rear wall of adjoining buildings	735 Kenyon St. (west): Rear wall would extend 56 ft. 8 in. beyond rear wall, or 46 ft. 8 in. more than allowed 729 Kenyon St. (east): Rear wall would extend 37 ft. 7 in. beyond rear wall, or 27 ft. 7 in. more than allowed	Special Exception

RF-1 Zone	Regulation	Existing	Proposed	Relief
Side Yard E § 307	None required, but 5 ft. min. if provided	No side yard existing	No change	None required
Apartment House Conversion U § 320.2	900 sq. ft. min. of land area per dwelling unit	1 unit	3 units (1,188 sq. ft. of land area per dwelling unit)	Special Exception
Parking C §701.5	1 parking space per 2 dwelling units	1 parking space	2 parking spaces	None required

IV. OFFICE OF PLANNING ANALYSIS

(a) Special Exception Relief from Subtitle U § 320.2, Apartment House Conversion.

320.2 The conversion of an existing residential building existing on the lot prior to May 12, 1958, to an apartment house, or the renovation or expansion of an existing apartment house deemed a conforming use under Subtitle U § 301.4 that increases the number of units, shall be permitted as a special exception in an RF zone if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, and subject to the following conditions:

According to Department of Buildings records, the existing residential building on the lot was built in 1907, which is prior to May 12, 1958.¹

(a) *The building to be converted or expanded is in existence on the property at the time the Department of Consumer and Regulatory Affairs accepts as complete the building permit application for the conversion or expansion;*

If the application is approved by the Board of Zoning Adjustment, the Department of Buildings shall verify the building is in existence on the property at the time of permitting.

(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 § 1003.10; and*

This subsection is not applicable to this application as the applicant is only proposing three dwelling units.

(c) *There shall be a minimum of nine hundred square feet (900 sq. ft.) of land area per each existing and new dwelling unit.*

There would be 1,188 square feet of land area per dwelling unit, well above the minimum 900 square feet required.

¹ <https://scout.dhra.dc.gov/>

(b) Special Exception Relief from Subtitle E § 206.1, Roof Top or Upper Floor Elements.

5207.1 The Board of Zoning Adjustment may grant relief from the requirements of Subtitle E § 206.1 as a special exception pursuant to Subtitle X, Chapter 9, and subject to the following conditions:

(a) The proposed construction 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 proposed removal of the existing cornice and provision of a new cornice above the second and third floors would not adversely affect light or air available to adjacent dwellings as the proposed cornices would not abut or block any windows.

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

Privacy and enjoyment of neighboring properties should not be unduly compromised because the proposed cornices are a roof top architectural embellishment and would not directly abut or face windows on adjacent dwellings.

(3) The proposed construction, 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;

There is a range of different architectural styles on the subject street frontage. Some buildings have retained their original roof top cornices while others have not. The proposal includes an appropriately designed roof top cornice at the new second floor and third floor levels. Given the variety of architectural styles and elements on the subject street frontage, the removal of the rooftop cornice and porch roof should not visually intrude upon the character, scale, or pattern along the subject street.

(b) In demonstrating compliance with paragraph (a), the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the proposed construction to adjacent buildings and views from public ways; and

The applicant has provided plans, photographs, and elevations to sufficiently represent the relationship of the proposed cornices from public ways.

(c) 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.

As discussed on page one of this report, OP recommends that the roof top cornice above the second and third floors on sheet BZA01 and BZA05 of the architectural plans in Exhibit 28 shall be built as shown on the drawings. This condition would help mitigate the proposed removal of the existing rooftop cornice and would result in a less visually intrusive design that would help maintain the general character of the block.

(c) Special Exception Relief from Subtitle E § 205.5, Rear Wall Extension.

5201.1 For an addition to a principal residential building on a non-alley lot or for a new principal residential building on a substandard non-alley record lot as described by Subtitle C § 301.1, the Board of Zoning Adjustment may grant relief from the following development standards of this subtitle 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 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.*

5201.2 & 5201.3 not relevant to this application

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

The proposed rear wall extension should not unduly affect adversely the use of neighboring property with regards to light, air, and privacy. The proposed rear addition would comply with both the maximum permitted height and rear yard requirement established for the zone.

The majority of the rear addition would be set back six feet six inches from the property to the west and would provide a setback that is similar to a side yard. This setback would be more than the minimum requirement of five feet that is established for side yards by the zone. This should minimize any undue impacts to light, air, or privacy on the property to the west. While the proposed rear addition would not be set back from the property to the east, this property already has a relatively long first floor addition and an accessory building in the rear. The applicant also proposes to break up the rear addition into three different segments by providing two courts above the first floor. Given the length of the proposed rear addition this is a better design solution instead of providing long solid walls that do not break up the mass of the rear extension. This should help minimize impacts on light, air, and privacy to both the property to the west and the property to the east.

The applicant provided a shadow study as part of the architectural plans in Exhibit 24, which shows an increase in shadows compared to the existing building. Any increase in shadows cast on neighboring properties should not be undue and should not be considered unreasonable for an area that is developed primarily with row buildings.

- (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 rear addition would not be visible from the street. There are a variety of apartment house conversions along the alley frontage and the proposal would be designed to be residential in character and would be like other apartment houses conversions with regards to scale and pattern.

- (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 plans, photographs, elevations, and a shadow study to sufficiently represent the relationship of the proposed row building from public ways.

- 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's recommendation is based on the condition that there shall be no decks, terraces, or recreation space on the roofs of the proposed units. This condition would help mitigate any adverse impacts on privacy of use and enjoyment of neighboring properties in connection with providing three units and building more than 10-feet beyond the existing rear of the property to the east.

- 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 proposed height and number of stories would comply with the RF-1 development standards and the proposed lot occupancy would be under the maximum allowed by special exception.

Subtitle X Section 901.2 for Apartment House Conversion, Roof Top Architectural Elements, and Rear Wall Extension

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

The Zoning Regulations for the RF-1 zone anticipate limited conversions of single household dwellings and flats to small apartment houses, and the occasional request to alter existing roof top architectural elements. In this case, the applicant meets the criteria for this relief and the proposal would not result in a use not anticipated by zoning. In this case, the proposal would not result in a use not anticipated by zoning and would comply with the minimum rear yard requirement.

(b) Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps;

As noted above, the proposed addition should not have undue impacts on adjacent dwellings in terms of light, air, or privacy.

(c) Subject in specific cases to the special conditions specified in this title.

OP has made recommendations for conditions related to the rear wall extension and roof top architectural element relief, as noted on page one of this report.

V. OTHER DISTRICT AGENCIES

No comments were received by the other District agencies at the time this report was filed to the record.

VI. ADVISORY NEIGHBORHOOD COMMISSION

ANC 1E filed a report to the record at Exhibit 23, indicating support for the application.

VII. COMMUNITY COMMENTS TO DATE

No community comments had been added to the record at the time this report was filed.

Attachment: Location Map

