

## MEMORANDUM

**TO:** District of Columbia Board of Zoning Adjustment

**FROM:** Karen Thomas, Development Review Specialist  
Joel Lawson, Associate Director Development Review

**DATE:** July 17, 2024

**SUBJECT:** BZA Case 20951A Request for Modification of Significance to BZA Order 20951 3646 13<sup>th</sup> Street NW (Square 2828, Lot 174 9, formerly 0820).

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### **I. BACKGROUND**

Recently, in [Order 20951 at Exhibit 7](#), the Board granted special exception relief to permit conversion of a two-story principal dwelling to a 4-unit apartment house in the RF-1 zone, including: construction of a third story addition with roof deck, and a three-story rear addition with cellar, and, one unit in a new 2-story accessory structure. The following special exception relief was granted from:

- The accessory building area requirements of Subtitle E § 5003.1,
- The accessory building rear yard requirements of Subtitle E § 5004.1,
- The roof top or upper floor addition requirements of Subtitle E § 204.1, and relief under
- The residential building conversion requirements of Subtitle U § 320.2, and
- The accessory building use requirements of Subtitle U § 301.1(e).

Subsequently, during the permitting process the Zoning Administrator determined additional relief was required, including variance relief from the 30-foot street frontage requirement of C § 303.4<sup>1</sup>, since the lot's status as a tax lot was changed to create a new record lot to permit the proposed construction for the apartment building.

In addition, the applicant is now proposing to reduce the number of dwelling units on the property from four to three; two units in the principal building and one unit in the accessory building at the rear of the lot.

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

The Office of Planning (OP) recommends **approval** of the following area variance relief pursuant to Subtitle C § 303.4 and X § 1001.3(f) from:

- The minimum 30-foot street-frontage requirement for creation of a lot for an apartment house: 21 feet existing and proposed.

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<sup>1</sup> 303.4 Each new lot being created to be used and occupied by an apartment house shall have a street frontage measured along the street line a distance of not less than thirty feet (30 ft.).

### III. LOCATION AND SITE DESCRIPTION

|                                    |  |
|------------------------------------|--|
| Address                            | 3646 13 <sup>th</sup> Street NW  |
| Applicant                          | Round Trip Properties LLC  |
| Legal Description                  | Square 2828, Lot 0820  |
| Ward, ANC                          | 1/ 1A  |
| Zone                               | RF-1 - allows single-family dwellings and flats, and conversions to an apartment house by special exception.   |
| Lot Characteristics                | The property is an irregularly shaped lot of 3,910 square feet. It is bounded by attached single-family row homes, a 15-foot-wide improved public alley to the west, and 13th Street NW to the east.   |
| Existing Development               | The property is improved with a two-story brick row building with cellar, in single-household residential use.   |
| Adjacent Properties                | The properties to the north and south and west are improved with two-story row buildings in residential use.   |
| Surrounding Neighborhood Character | The surrounding neighborhood is primarily residential in character.  |
| Proposed Development               | The Applicant received BZA relief to allow conversion of the house to an apartment house with three units, including rear and third story additions, as well as an accessory building at the rear to house a 4 <sup>th</sup> apartment unit exceeding the max. building area of 450 sq.ft. |

### IV. ZONING REQUIREMENTS and RELIEF REQUESTED<sup>2</sup>

| Zone – RF-1                    | Regulation  | Existing                      | Proposed  | Relief                      |
|--------------------------------|---|-------------------------------|---|-----------------------------|
| Lot Width<br>E § 202 (201)     | 18 ft.  | 21 ft.(front)<br>46 ft (rear) | No change   | None Required               |
| Lot Area<br>E § 202 (201)      | 1,800 sq. ft.                                     | 3,910 sq. ft.                 | 3,910 sq. ft.   | None Required               |
| Height<br>E § 203 (303)        | 35 ft./3 stories                                  | 26 ft                         | 34.5 ft./3 stories  | None Required               |
| Lot Occupancy<br>E § 210 (304) | 60%   | 33.2%                         | 58.3%   | None Required               |
| Rear Yard<br>E § 207 (306)     | 20 ft.  | 43.25 ft.                     | 43 feet to rear lot line;<br>3.8 ft. to accessory<br>building | None Required<br>See *below |
| Side Yard<br>E § 208 (307)     | Not required, but 5<br>ft. minimum if<br>provided | 0 ft.                         | 0 ft.   | None Required               |
| Parking C § 701                | 1 space/2 du                                      | 2 spaces                      | 2 spaces  | None Required               |

<sup>2</sup> Information provided by Applicant, Exhibit 4, dated May 31, 2022.

| Zone – RF-1   | Regulation  | Existing                                      | Proposed   | Relief                         |
|---|---|---|--|--------------------------------|
| <b>Rooftop Upper Floor Elements</b><br>Alteration of Architectural element<br>E § 204 (206) | Original architectural elements shall not be removed or significantly altered | Mansard roof                                  | Removal and replacement with a flat roof and dormer style front facade | <b>Approved</b>                |
| <b>Accessory Building for Use as a Dwelling</b><br>U § 301.1(e)                             | Accessory building must be constructed prior to 2013                          | None  | Proposed new construction  | <b>Approved</b>                |
| <b>Accessory Structure Building Area</b><br>E § 5003  | Greater of 30% of required rear yard or 450 sf                                | N/A   | 864 sf   | <b>Approved</b>                |
| <b>Accessory Building in a Rear Yard.</b><br>E § 5004                                       | Not to be located within the required rear yard                               | None  | 16 ft. 4 in. within the required rear yard                             | <b>Approved</b>                |
| <b>Conversion to an Apt</b><br>U § 320.2  | 3 or more units by sp.ex. with 900 sq. ft lot area / unit                     | One-Family unit                               | 4 units  | <b>Approved</b>                |
| <b>Street Frontage for new lot for an apt. C § 303.4</b>                                    | 30 ft min. measured along the street line                                     | 21 feet                                       | No Change  | <b>Area Variance requested</b> |
| <b>Conversion to an Apt</b><br>U § 320.2  | 3 or more units by sp.ex. with 900 sq. ft lot area / unit                     | 4 units approved 977.5 sq. ft. lot area/ unit | 3 units  | <b>Change requested</b>        |

## V. OFFICE OF PLANNING ANALYSIS

### a. 704 Modification of Significance

704.1 *Any request for modification that cannot be processed pursuant to Subtitle Y § 703 shall require a public hearing.*

Since additional relief is required, the Applicant has correctly submitted a request for a modification of significance.

704.2 *An application for a modification of significance shall be made in an appropriate manner provided by the Director. The applicant shall furnish two (2) copies of all information required by the form at the time of filing the application, including the following:*

(a) *A completed application form;* Provided at [Exhibit 1B](#)

(b) *The nature of, reason(s), and grounds for the modification of significance;* Provided at [Exhibit 3](#)

(c) *The name and addresses of the owners of all property located within two hundred feet (200 ft.) of the subject property and two (2) copies of self-stick labels printed with their names and addresses;* Provided at [Exhibit 16](#)

(d) *A copy of the resume of any expert witness who will be testifying in the case;* N/A

(e) *A written summary of the testimony of all witnesses;* N/A

(f) *A copy of any Board final order, map, plan, or other action or relief proposed to be modified or corrected;* Provided at [Exhibit 2, Exhibit 7, Exhibit 10](#)

(g) *Proof of service to all parties.* Provided at [Exhibit 19](#)

All the required have been submitted, with the noted exhibits to the record.

704.3 *No application for modifications of significance shall be processed until the application is complete and all required fees are paid in accordance with the applicable fee schedule prescribed in Subtitle Y, Chapter 16.* Provided at [Exhibit 15](#)

704.4 *All written requests shall be served by the moving party on all parties in the original proceeding at the same time that the request is filed at the Office of Zoning.* [Exhibit 19](#)

704.5 *All requests for modifications of significance shall be served on all other parties to the original application at the same time as the request is filed with the Board.* [Exhibit 19](#)

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704.8 *A decision on a request for modification of plans shall be made by the Board on the basis of the written request, the plans submitted therewith, and any responses thereto from other parties to the original application.*

**For §§ 704.6 through 704.8** See Variance Relief from Subtitle U § 303.4 following.

704.9 *The filing of any modification request under this section shall not act to toll the expiration of the underlying order and the grant of any such modification shall not extend the validity of any such order.*

The filing of this modification will not toll the expiration of Order 20951 dated October 11, 2023, or interpreted as a grant of extension of the validity of the Order.

**b. *Variance Relief from Subtitle U § 303.4, pursuant to Subtitle X § 1000, from the 30 feet minimum street frontage requirement for a new record lot for an apartment building.***

**i. *Exceptional Situation Resulting in a Practical Difficulty***

**Exceptional Condition**

Tax Lot 820, which was the subject of the initial BZA application, was created in 2009 before the existing ZR16 Regulations. The lot is developed with a pre-1958 building (circa 1922) and the street frontage of 21 feet has been in existence since when the original structure was built on what was then record Lot 167. The lot has now acquired the status as record Lot 174, which is required for building permit issuance. The lot is developed with an existing dwelling, in poor condition, which would be converted to two units (a flat) which would be permitted by right in this zone. The applicant is also

proposing a third unit in an accessory building at the rear of the lot, where the lot widens considerably.

### **Practical Difficulty**

The Applicant has no ability to widen its street frontage as they do not have ownership of either abutting property, and owners of those lots have not indicated a willingness to sell their abutting lots for the purposes of widening the street frontage of the newly created record lot.

Therefore, the physical pre-existing condition of the street frontage, without the ability to add street frontage, creates an exceptional situation of the lot resulting in a practical difficulty for the Applicant in satisfying the condition of Subtitle C § 303.4.

### **ii. No Substantial Detriment to the Public Good**

Substantial detriment to the public good is not anticipated as the existing structure would be returned to productive residential use from its vacant and abandoned condition. Returning the property to a residential use, consistent with existing uses on the block and zone would be without detriment to the light or air to neighboring properties as determined prior by the Board in its decision in the original Order 20951.

The Applicant also now proposes a three-unit apartment, rather than 4 units as approved. This would continue to satisfy the area requirement for conversions in the RF-1 zone and would not result in a greater impact on neighbors than the approved four-unit apartment building.

### **iii. No Substantial Harm to the Zoning Regulations**

OP does not anticipate substantial harm to the Zoning Regulations in this case. The regulation requires adequate width on a lot for an apartment use. In this case, the applicant is converting an existing building from one to two units (a use permitted by right in this zone). The lot widens considerably towards the rear where the third unit would be located, and which results in this being considered an apartment lot. The additional requested relief would not change the facts upon which the original decision was made, as the prior approval was reviewed with the existing 21-foot street frontage. This is a physical feature of the lot that cannot be reasonably changed by the Applicant and in this instance relief from the street frontage requirement would not present a substantial harm to the Regulations.

## **VI. OTHER DISTRICT AGENCIES**

At the writing of this reports OP had not received DDOT's comments.

## **VII. ADVISORY NEIGHBORHOOD COMMISSION**

ANC 1 A submitted its report at [Exhibit 22](#) in support of the relief requested under the initial submission.

## **VIII. COMMUNITY COMMENTS**

Comments from other residents had not been submitted to the record at the time this report was drafted.



**Location Map: 3646 13<sup>th</sup> Street NW**

