



MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Michael Jurkovic, AICP, Development Review Specialist
JL Joel Lawson, Associate Director Development Review
DATE: October 24, 2024
SUBJECT: BZA Case 21188: Request for special exception relief pursuant to allow rear expansion at 502 Constitution Avenue NE.

I. RECOMMENDATION

The Office of Planning (OP) recommends **approval** of the following special exception pursuant to Subtitle E § 5201, Subtitle X § 901, and Subtitle E § 403:

- E § 207.4, Rear Additions (10 ft. permitted, 18.17 ft. proposed); and
- E § 210.1, Maximum Lot Occupancy (60% required, 51.5% existing; 62.9% proposed)

II. LOCATION AND SITE DESCRIPTION

Address:	502 Constitution Ave. NE
Applicant:	Jonathan Kuhn on behalf of Robert Bailey
Legal Description:	Square 0838; Lot 0037
Ward / ANC:	Ward 6; ANC 6C
Zone:	RF-1/CAP
Historic Districts	Capitol Hill
Lot Characteristics:	Irregular Lot measuring 19 ft. x 90 ft. with a 5 ft. x 16 ft. cut-out at the rear property line with a 9 ft. wide alleyway to the rear.
Existing Development:	Two Family Flat
Adjacent Properties:	Residential Flats
Surrounding Neighborhood Character:	Moderate Density Residential with a Mixed-Use corridor anchored at Stanton Park to the North
Proposed Development:	Rear addition to a two-family flat.

III. ZONING REQUIREMENTS and RELIEF REQUESTED

RF-1 Zone	Regulation	Existing	Proposed ¹	Relief:
Density E § 201	2 principal units max.	2	No Change	None Requested

¹ Provided by the applicant.

RF-1 Zone	Regulation	Existing	Proposed ¹	Relief:
Lot Width E § 202	18 ft. min.	19 ft.	No Change	None Requested
Lot Area E § 202	1,800 sq. ft. min.	1630 sq. ft.	No Change	Existing Non-conformance
Height E § 203	35 ft. max.	36.6 ft.	No Change (Max. 28.5 ft. for the addition)	Existing Non-conformance
Rear Yard E § 207	20 ft. min.	45.79 ft.	34.21 ft.	None Requested
Rear Extension E § 207.4	10 ft. max. beyond neighboring houses	N/A	18.17 ft.	Relief Requested
Lot Occupancy E § 210	60% max.	51.5%	62.3%²	Relief Requested
Parking C § 701	1 per 2 principal dwelling units.	2	No Change	None Requested

IV. OP ANALYSIS

Subtitle E Chapter 5201 ADDITION TO A BUILDING OR ACCESSORY STRUCTURE

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.*

The applicant has requested relief from the maximum lot occupancy and the maximum 10 ft. extension requirements of the RF-1/CAP zone.

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;*

² OP has been informed by the applicant that the noted 67.3% lot occupancy in the submitted plans appears to be an error.

The proposed rear addition requires relief from the 10 ft. provision for only the adjacent building to the west. Impacts to light available to the western neighbor should only be to roof areas no windows or open areas should be impacted. The requested increase in lot occupancy over the by-right limit would remain below the lot occupancy of the adjoining neighbor, and well below what would be permitted by special exception on this lot. Therefore, the relief should not have a significant impact on the availability of light or flow of air to the neighboring properties anymore than the existing conditions of this row of buildings or what could be developed without the requested relief.

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

The proposed addition would not include windows on the side walls, while openings on the rear wall would face the alley. A door on the eastern elevation for first floor egress would be setback from the property line. The proposal does not require relief from the 10 ft. extension provision as it relates to the first story of the property to the west or the adjoining neighbor to the east. As such, the proposal should not have a significantly greater impact on the neighbors' privacy than what could be developed by-right.

(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 rear addition should not be visible from adjacent streets but would be partially visible from the alley. Said views from the alley are obscured by an existing brick wall and adjacent accessory structure. However, the proposed addition is designed to be in character with the existing house and alley-scape. Therefore, the proposed addition should not substantially intrude upon the character, scale, and pattern of other structures along the street or alleyway.

(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 provided plans, photographs, and elevations to sufficiently represent the relationship of the proposed addition 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.*

No special treatment is recommended.

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/CAP development standards. The requested lot occupancy relief is within that is allowed by special exception in the RF-1 zone.

Relief for both Rear Extension and Accessory Dwelling Building, pursuant to RF-1/Cap Special Exception Review E§403 (E§5203)

403.1 *In reviewing an application for a special exception in the RF-1/CAP zone, in addition to the applicable criteria of this subtitle and of Subtitle X, Chapter 9, the Board of Zoning Adjustment shall consider whether the proposed development is:*

- (a) *Compatible with the present and proposed development of the neighborhood;*
- (b) *Consistent with the goals and mandates of the United States Congress in title V of the Legislative Branch Appropriation Act, 1976 (Master Plan for Future Development of the Capitol Grounds and Related Areas), approved July 25, 1975 (Pub. L. No. 94-59, 89 Stat. 288); and*
- (c) *In accordance with the plan promulgated under the Act.*

The Architect of the Capitol provided comments to the record stating no objection to the application on October 15, 2024, at Exhibit #27.

403.2 *Upon receipt of the application, the Board of Zoning Adjustment shall refer the application to:*

- (a) *The Architect of the Capitol for review and report; and*
- (b) *The Office of Planning for review, report, and impact assessment along with coordination of reviews in writing of all relevant District departments and agencies including:*
 - (1) *The District Department of Transportation;*
 - (2) *The Department of Housing and Community Development; and*
 - (3) *The Historic Preservation Office if the application involves a historic district or historic landmark.*

The Office of Zoning referred the application to all relevant agencies.

403.3 *The Board may require special treatment and impose reasonable conditions as it deems necessary to mitigate any adverse impacts identified in the consideration of the application.*

No special treatment is recommended in this case.

Subtitle X Section 901 SPECIAL EXCEPTION REVIEW STANDARDS

901.2 *The Board of Zoning Adjustment is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2), to grant special exceptions, as provided in this title, where, in the judgment of the Board of Zoning Adjustment, the special exceptions:*

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

The proposed rear addition would be consistent with the intent of the RF-1 zone requirements. Specifically, the requested addition would be consistent with the lot occupancy which is allowed by special exception and would comply with the other development requirements of the zone. The proposal would be in conformance with all other development standards of the RF-1/CAP zone and the requested relief would not

result in a building that would be inconsistent with the height, bulk, or use of the lot.

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

The proposed rear second story addition should not intensify any impact to the use of neighboring properties as the proposal would be well within the range in depth and lot occupancy of other properties in this row of houses, nor would it increase the height of the dwelling.

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

The form of relief is within the allowed criteria of E § 5201, provided above.

V. ARCHITECT OF THE CAPITOL

A report from the Architect of the Capitol is at Exhibit #27.

VI. OTHER DISTRICT AGENCIES

DDOT has informed OP via email that they have no objection to the approval of the application.

VII. ADVISORY NEIGHBORHOOD COMMISSION

As of the writing of this report, there are no comments from ANC 6C in the record.

VIII. COMMUNITY COMMENTS

As of the writing of this report, there are five letters of support from neighbors as well as from the Capitol Hill Restoration Society.

Attachment: Location Map

Figure 1: Location Map

