

## 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, 2025

**SUBJECT:** BZA Case 21209: Request for special exception relief pursuant to allow the subdivision of a substandard alley lot at Square 774, Lot 65, into three new alley lots.

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### **I. RECOMMENDATION**

The Office of Planning (OP) recommends **denial** of the following area variances pursuant to Subtitle X § 1002:

- Lot A - Rear 304 K Street, NE
- Lot B - Rear 306 K Street, NE
- Lot C - Rear 308 K Street, NE
  - C §301.1 (a) & (b), Minimum Alley Width for a New Alley Lot (24 ft. required, 10 ft. existing; 10 ft. proposed).

OP has advised the applicant that they have not met the burden of proof as they have not provided sufficient justification for the requested area variances against the relevant tests. Should the applicant provide additional justification prior to or at the hearing, OP can revisit this recommendation as needed. In addition, should the BZA determine that the applicant has met the burden of proof, then OP recommends **approval** of the following special exceptions pursuant to Subtitle X § 901:

- Lot A - Rear 304 K Street, NE
  - E § 5100(e), Minimum Alley Centerline Setback (7.5 ft from alley centerline, 5 ft. proposed), pursuant to Subtitle E § 5200; and
  - U § 601.1(f), Residential Use of an Alley Lot (24 ft. or 15ft alley width within 300 ft of a public street required, 10 ft. existing alley width within 300 ft; 10 ft. proposed alley width within 300 ft);
- Lot B - Rear 306 K Street, NE
  - U § 601.1(f), Residential Use of an Alley Lot (24 ft. or 15ft alley width within 300 ft of a public street required, 10 ft. existing alley width within 300 ft; 10 ft. proposed alley width within 300 ft);
- Lot C - Rear 308 K Street, NE
  - E § 5100(d), Minimum Side Yard (5 ft from adjacent non-alley lots, 0 ft. proposed), pursuant to Subtitle E § 5200; and
  - U § 601.1(f), Residential Use of an Alley Lot (24 ft. or 15ft alley width within 300 ft of a public street required, 10 ft. existing alley width within 300 ft; 10 ft. proposed alley width within 300 ft).

## II. LOCATION AND SITE DESCRIPTION

Address:	Rear 304, 306, and 308 K Street, NE
Applicant:	Toye Bello on behalf of Ina & Gregory Igbozuruike
Legal Description:	Square 0774; Lots 0065
Ward / ANC:	Ward 6; ANC 6C
Zone:	RF-1
Historic Districts	N/A
Lot Characteristics:	Irregular Alley-Lot with a 10 ft. public alleyway to the west and a 18.17 ft. unimproved public alleyway to the north.
Existing Development:	None
Adjacent Properties:	Existing commercial alley lot to the north, mixed-use building to the west, and Semi-detached and row dwellings to the south.
Surrounding Neighborhood Character:	Moderate Density Residential Neighborhood bounded by mixed-use corridors.
Proposed Development:	Three new alley lots to each be improved with a single-family row dwelling.

## III. ZONING REQUIREMENTS and RELIEF REQUESTED

RF-1 Zone	Regulation	Existing	Proposed <sup>1</sup>	Relief:
Lot Width E § 202	18 ft. min.	N/A	<u>Lot A:</u> 37.57 ft. <u>Lot B:</u> 23.34 ft. <u>Lot C:</u> 23.50 ft.	None Requested
Lot Area E § 202	1,800 sq. ft. min.	N/A	<u>Lot A:</u> 2,083 sq. ft. <u>Lot B:</u> 1,802 sq. ft. <u>Lot C:</u> 1,829 sq. ft.	None Requested
Alley Lot Height E § 5100.1(a)	20 ft. and 2 stories max.	N/A	20 ft. and 2 stories	None Requested
Alley Lot Occupancy E § 5100.1(b)	<i>Between 1800 &amp; 2000 sq. ft.: 90% max.</i> <i>Greater than 2000 sq. ft.: 80% max.</i>	0%	<u>Lot A:</u> 49.2% <u>Lot B:</u> 57% <u>Lot C:</u> 56%	None Requested
Alley Lot Rear Yard E § 5100.1(c)	5 ft. min. from lot lines abutting non-alley lots.	N/A	<u>Lot A:</u> 6 ft. <u>Lot B:</u> 26.8 ft. <u>Lot C:</u> 26.8 ft.	None Requested
Alley Lot Side Yard E § 5100.1(d)	<b>5 ft. min. from lot lines abutting non-alley lots.</b>	N/A	<b><u>Lot C:</u> 0 ft.</b>	<b>Relief Requested for Lot C</b>

<sup>1</sup> Provided by the applicant.

RF-1 Zone	Regulation	Existing	Proposed <sup>1</sup>	Relief:
Alley Centerline Setback E § 5100.1(e)	7.5 ft. min. from the centerline of an alley	5 ft.	<u>Lot A:</u> 5 ft. <u>Lot B:</u> 9.1 ft. <u>Lot C:</u> 9.1 ft.	Relief Requested for Lot A
Alley Lot Pervious Surface E § 5100.1(f)	10% min.	N/A	<u>Lot A:</u> 48.2% <u>Lot B:</u> 42% <u>Lot C:</u> 42.4%	None Requested
Parking C § 701	1 per principal dwelling	N/A	1 per lot, Lots B & C will have parking on Lot A	None Requested
Minimum Alley Width C § 306.1 & U § 600.1	For new lots, Continuous access though an alley not less than 24 ft. // or for existing lots 15ft. continues within 300 ft.	10 ft.	10 ft.	Relief Requested for all lots

#### IV. OP ANALYSIS

##### a. AREA VARIANCES - C §301.1 (a) & (b) for Rear 304, 306, and 308 K Street, NE

##### Subtitle X Section 1000 VARIANCE GENERAL PROVISIONS

*1000.1 With respect to variances, the Board of Zoning Adjustment has the power under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(3) (formerly codified at D.C. Official Code § 5-424(g)(3) (2012 Repl.)), "[w]here, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the original adoption of the regulations, or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under D.C. Official Code §§ 6-641.01 to 6-651.02 would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, to authorize, upon an appeal relating to the property, a variance from the strict application so as to relieve the difficulties or hardship; provided, that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map."*

##### ***Extraordinary or Exceptional Situation or Condition Resulting in Practical Difficulty***

##### *Extraordinary or Exceptional Situation or Condition*

The applicant provides factors which they cite as resulting in an extraordinary or exceptional condition. OP does not see a tangible connection to contributing to a practical difficulty for many of these. However, the following conditions identified by the applicant such as the large size of the lot in respect to typical RF-1 lots, making the marketability of developing the vacant record lot as a large single-family dwelling difficult, and the inability to practically increase the size of the existing 10 ft. alley which has existed prior to ZR'58 s as contributing factors to the unusual condition.

*Resulting Practical Difficulty*

To meet this portion of the test, a nexus is to be established between the unique characteristics and a practical difficulty in the applicant's proposal. In this case, OP is not yet convinced that there is a valid argument for a practical difficulty arising from the lot's unique circumstances – unusually large lots are readily developed consistent with the regulations, and it does not appear that there is a practical difficulty in the redevelopment of the existing alley record lot with a single, albeit large, dwelling.

The applicant's argument rests partially on their statement that the development of a single large dwelling would not be possible given current market conditions. However, the record does not contain the requisite market analysis to support the argument. Perhaps more important, the applicant states that the history of the property, including its long history of being vacant or underutilized, should be considered. However, no such explanation of the record lot's history has been presented in the record.

OP does support the appropriate use of underutilized alley lots and has proposed additional changes to the alley lot regulations (Zoning Commissions case ZC 25-06). As noted above, OP would consider any additional justification provided to the record for this case by the applicant. However, given the current record and the current regulations, the applicant has not adequately demonstrated that the property exhibits Extraordinary or Exceptional Situation or Conditions resulting in a practical difficulty.

***No Substantial Detriment to the Public Good***

The proposal would result in the improvement of an otherwise unimproved/vacant alley lot with a development pattern otherwise consistent with adjacent properties and would result in the partial restoration of the east/west 18 ft. alley. Therefore, the requested relief should not result in undue impacts on the neighborhood.

***No Substantial Impairment to the Intent, Purpose, and Integrity of the Zoning Regulations***

Granting of the requested relief should not result in substantial impairment to the intent, purpose, and integrity of the Zoning Regulation. The RF-1 Zone is intended to provide for areas predominately developed as row buildings on small lots. In this case, the existing property is already substandard regarding street access but exists as a large alley lot that could, with less relief, be developed as a large single-family dwelling. The relief requested would allow the subdivision and development of the site in a size and scale commensurate with the type of alley lot development generally envisioned in RF-1 zone, row buildings subordinate in scale to the square's street fronting properties. However, the proposal could be considered not consistent with the intent of the current alley lot provisions, which include the regulation of size and access to the lot(s).

**b. SPECIAL EXCEPTIONS**

Should the BZA find that the applicant has adequately met the area variance test for the relief discussed above, OP provides analysis of the special exception relief requested.

**i. U § 601.1(f) for Rear 304, 306, and 308 K Street, NE**

**Subtitle U Section 601 SPECIAL EXCEPTION USES ON ALLEY LOTS (R, RF, AND RA)**

*601.1 The following uses shall be permitted on an Alley Lot in any R, RF, and RA zone, if approved by the Board of Zoning Adjustment as a special exception pursuant to Subtitle X, Chapter 9 and subject to the applicable conditions for each use below:*

...

*(f) Residential use not meeting the criteria of Subtitle U § 600.1(f), subject to the following conditions:*

*(1) The Alley Lot is not wholly or partially within any of the R-1 or R-2 zones;*

Alley lot is within the RF-1 zone.

*(2) A building may not be constructed or converted for a dwelling unit unless the lot is an Alley Record Lot and there is a minimum of four hundred and fifty square feet (450 sq. ft.) of lot area;*

The proposed lots individually will each be greater than 450 sq. ft. in area.

*(3) The use shall be limited to one (1) dwelling unit per lot; accessory apartments are not permitted;*

Each lot is proposed to be improved with a single family dwelling with no accessory apartment.

*(4) The Alley Lot connects to an improved public street through an improved alley or system of alleys that provides adequate public safety and infrastructure availability;*

The Alley lot would connect through the 10 ft. improved alley to K Street to the South and L Street to the North. As of the writing of this report there are no objections in the record from relevant agencies such as FEMS, MPD, or DC Water.

**ii. E § 5100(f), for Lot A (Rear 304 K Street, NE)**

**Subtitle E Chapter 5201 ADDITION TO A BUILDING OR ACCESSORY STRUCTURE**

*5201.1 & 5201.2 not relevant to this application*

5201.3 *For a new or enlarged building on an Alley Record 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) *Yards, **including alley centerline setback**; and*
- (b) *Pervious surface.*

Applicant has requested relief to the minimum centerline setback requirement of E § 5100(e) for lot A only.

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 proposed Lot A exists adjacent to a seven-story mixed-use apartment building across the alley to the west, and a commercial alley use across the currently unimproved alley to the north. Therefore, the potential impacts to light and air from a two-story row dwelling should not unduly affect neighboring properties.

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

With respect to the proposed Lot A there is a large window proposed along the eastern façade which wraps partially around the front elevation. However, the existing apartment house to the east has a large retaining wall with a fence on top which would likely buffer views into the first floor. Additionally, the units along its eastern façade have balconies making the majority of windows setback from the outer wall of the structure. Therefore, the views from the proposed row dwelling should not unduly compromise the use and enjoyment of 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*

Currently, the 10 ft. alley does not have a discernable character. The rear of the property to the west is mostly a blank retaining wall with fence and the only other alley lot in the square is improved with a simple brick building. Additionally, the proposed structure would not be readily visible from the street frontage. Therefore, especially when viewed to include the street fronting lots being developed under the same ownership, this application would serve to establish a coherent visual character of the alley.

- (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.*

Applicant has informed OP that they plan to submit supplemental information to the record. Once full elevations are submitted to the record the graphical representation should be sufficient for this area of relief.

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.*

As part of this application, the Applicant has requested additional relief pertinent to the establishment of the proposed alley lots.

iii. **E § 5100(e), for Lot C (Rear 308 K Street, NE)**

**Subtitle E Chapter 5201 ADDITION TO A BUILDING OR ACCESSORY STRUCTURE**

5201.1 & 5201.2 *not relevant to this application*

5201.3 *For a new or enlarged building on an Alley Record 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) ***Yards***, including alley centerline setback; and
- (b) *Pervious surface.*

Applicant has requested relief to the minimum Side Yard requirement of E § 5100(d) for lot C only.

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 requested relief to the required side yard for the proposed Lot C should not unduly affect light and air of the property for which the relief is required. There currently exists a plain brick commercial structure directly adjacent to where the proposed dwelling would be, therefore the potential impact to shadow, if any, would be to the roof of said structure and largely not to the rear yard of the row dwelling positioned towards the street fronting portion of the property.

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

No windows are proposed along the shared side property line. Therefore, the use and enjoyment of neighboring properties should not be unduly compromised in respect to the side yard relief requested.

- (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*

As stated for the requested relief above, this application would serve to establish a residential character along the alley section and the proposed row dwelling is consistent with the scale of development which is the majority of the square. Moreover, this Lot would not be visible to any effect from a public street. Therefore, the requested relief should not result in a building that would substantially visually intrude upon the character, scale, and pattern of houses 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.*

Applicant has informed OP that they plan to submit supplemental information to the record. Once full elevations are submitted to the record the graphical representation should be sufficient for this area of relief.

- 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.*

As part of this application, the Applicant has requested additional relief pertinent to the establishment of the proposed alley lots.

#### **iv. SPECIAL EXCEPTION - X § 901 Review for Rear 304, 306, and 308 K Street, NE**

##### **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;*



Granting of the requested special exception relief should not result in substantial impairment to the intent, purpose, and integrity of the Zoning Regulation, particularly if the BZA determines that the applicant has met the relevant variance test for relief noted above. The RF-1 Zone is intended to provide for areas predominately developed as row buildings on small lots. In this case, the existing property is already substandard in regard to street access but exists as a significantly large alley lot. The relief requested would allow the subdivision and development of the site in a size and scale commensurate with the type of alley lot development envisioned in RF-1 zone, that is row buildings subordinate in scale to the square's street fronting properties.

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

The proposal would result in the improvement of an otherwise unimproved/vacant alley lot with a development pattern otherwise consistent with adjacent properties and would result in the partial restoration of the east/west 18 ft. alley. Therefore, the requested relief should not result in undue impacts on the neighborhood.

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

The applicant attests that the areas of relief requested meet the applicable conditions therewithin.

## **V. OTHER DISTRICT AGENCIES**

As of the writing of this report, there are no report from other district agencies in the record.

## **VI. ADVISORY NEIGHBORHOOD COMMISSION**

As of the writing of this report, there is no report from ANC 6C

## **VII. COMMUNITY COMMENTS**

As of the writing of this report, there are no public comments in the record.

Figure 1: Location Map

