

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Maxine Brown-Roberts, Development Review Specialist
JL
Joel Lawson, Associate Director Development Review

DATE: February 20, 2025

SUBJECT: Supplemental BZA Case 21220 – Relief request for additions to a single dwelling house and conversion to a three-dwelling apartment building at 1154 Morse St. NE

I. BACKGROUND AND RECOMMENDATION

At [Exhibit 25](#) is an Office of Planning (“OP”) Preliminary Report, noting that 327 Upshur, LLC (“Applicant”) was considering options for amending the original application, and that OP would provide a report with recommendation once the applicant resolved this. Subsequently, the applicant decided to proceed forward with the original plans with no change in the relief originally requested.

OP had expressed concerns that the accessory building appeared to be configured as two additional dwelling units, which would not be allowed by-right or by special exception in this zone, given the lot size. The Applicant states that each level of the proposed accessory building would be assigned to the basement and first floor units in the principal building, and could not be converted to independent units as full cooking facilities would not be provided. OP has conveyed to the Applicant a continued concern that the spaces, as configured, could function or be easily adapted to function as separate units, as each floor would have its own kitchen, laundry, and HVAC systems so would seem to be able to function independently of the units in the principal building.

In addition, the building to be converted is located on a Tax Lot which has a different size and configuration as the larger underlying record lot. As such, it will have to be converted to a record lot, which is a subdivision process, to allow any new construction on the lot. Further, Subtitle C § 303.4 states that *Each new lot being created to be used and occupied by an apartment shall have a street frontage measured along the street line a distance of not less than thirty feet (30 ft.).*

The Applicant has been advised that in this case, the street frontage width is 18 feet and therefore the subdivision conversion of the tax to record lot appears to require area variance relief from the current requirement of Subtitle C § 303.4. OP has confirmed with The Zoning Administrator’s Office that the relief is required, but the application is self-certified and the Applicant states they disagree and are not requesting this relief; so OP has not provided analysis or recommendation.

If the BZA decides to proceed with this application as filed, OP would recommend **approval** of:

- Subtitle E § 207.5, Rear Yard Extension (10 ft. max. allowed, 16 ft. proposed) pursuant to Subtitle E § 5201 and Subtitle X § 901.2; and
- Subtitle U § 320.2 Apartment House Conversion pursuant to Subtitle X § 901.2.

SUBJECT TO a condition that the accessory building is not permitted to be used or converted to independent dwelling units, and that revised plans be filed to the record with the space reconfigured

to ensure it could not function as one or more independent units. This condition is intended to ensure that the proposal is consistent with the wording and intent of the RF zones.

II. LOCATION AND SITE DESCRIPTION

Address:	1154 Morse Street, NE
Applicant:	327 Upshur, LLC represented by Gregory Kearley
Legal Description:	Square 4065, Lot 814
Ward / ANC:	Ward 5, ANC 5D
Zone:	RF-1 - Provides for areas developed primarily with residential row buildings, but within which there have been limited conversions of buildings into more than two dwelling units, based on lot size.
Lot Characteristics:	An irregularly shaped lot with an area of 2,878 square feet and abuts a 16 feet wide public alley in the rear.
Existing Development:	Two-story, single-family attached, row dwelling.
Adjacent Properties:	Attached single dwelling houses
Surrounding Neighborhood Character:	The neighborhood is composed of mostly attached and detached residences.
Proposed Development:	The proposal is for a third-story and roof deck addition, a rear addition and conversion to a three unit apartment building.

Site Location



III. ZONING REQUIREMENTS and RELIEF REQUESTED

RF-1 Zone	Regulation	Existing	Proposed	Relief:
Lot Width, E § 201	18 ft. min (attached)	18 ft. front 24.75 ft. rear	No Change	None required
Height, E § 303	35 ft. max./3 stories	25 ft./2 stories	33.08 ft./3 stories	None required
Lot Occupancy, E § 304	60% max.	45%	55.33%	None required
Rear Yard, E § 306	20 ft. min.	91 ft.	59 ft.	None required
Rear Yard Extension, E § 205	10 ft. max. beyond neighboring houses	0 ft.	16 ft.	Special Exception Requested
Lot Area, U § 320.2	1,800 sq. ft. 2,700 sq. ft. min/ (900 sq. ft. of land area per unit)	2,878 sq. ft.	2,878 sq. ft. 959.3 sq. ft. of land area unit	None required
Apartment House Conversion, U § 320.2	Special Exception Relief Needed for Conversion	Single dwelling House	3-unit apartment building maximum	Special Exception Requested
Lot frontage (subdivision) C § 303.4	30 ft. min.	18 ft. frontage tax lot	18 ft. frontage record lot	Area Variance not requested
Parking, C § 701	1 space	2 spaces min	2 spaces	None required
Accessory Building Height	20 ft./2 stories	-	19.5 ft./2 stories	None required
Building Area	450 sq. ft. max.	-	300 sq. ft.	None required
Rear Yard Setback from center line of alley	7.5 ft	-	28.5 ft.	None required

IV. ANALYSIS

The Applicant has proposed a three-story rear addition, a third floor addition and a stairway to a roof-top deck. The Applicant is also converting the building to three principal dwelling units. The rear addition would extend 16 feet past the adjacent rear walls of the buildings to the east and west. The current tax lot also appears to be required to be re-subdivided into a record lot, for which relief would be required but has not been requested, so OP has not provided analysis.

Relief for Rear Extension, pursuit Subtitle E§ 5201:

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 is requesting relief for the rear yard extension.

5201.2 and 5201.3 Not Applicable

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;*

Neither neighbor should experience an undue impact on their light and air. According to the Applicant's shadow study which compares the proposed addition to the by-right scenario, shadowing on the adjacent property should not cause an undue impact.

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

The requested relief should not result in an undue impact on privacy, as the addition would have no windows facing either neighbor. The views from the rear of the property into the subject and adjacent rear yards would generally be similar to the present situation.

The proposal includes a trash area in the northwestern corner of the rear yard beside the parking spaces and accessed from the alley. A roll up door and fencing along the rear property line would provide privacy and security to the rear yard along the alley.

- (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;*

The proposed third floor addition would make the building taller than the adjacent buildings, but a third story is allowed by right and would be within the zoning permitted height. The conforming third floor would be set back six-feet behind the existing roof top element or approximately 12 feet behind the front façade of the building. The existing architectural elements on the front of the building would be retained.

The building materials proposed for the addition would be similar to those of the existing rear façade and the façades of other buildings along the alley. A larger than required rear yard would be maintained. Therefore, the addition should not visually intrude on the character, scale and pattern of houses along 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.*

The Applicant provided sufficient graphical plans, photographs, and elevations to complete the review.

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 does not recommend any special treatment.

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 expansion would facilitate conversion of the single dwelling house to a three-unit residential building, which is an anticipated use in the RF-1 zone for a property of this size. The proposed addition would not result in the building lot occupancy, height, number of stories, or intensity of use exceeding what is anticipated by the zone.

Subtitle X § 901

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 requested rear extension relief should not result in a building that is of a bulk, height, lot occupancy, or use not anticipated by the zone. Therefore, it would be consistent with the intent of the zone and the Zoning Regulations.

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

As outlined and demonstrated above, the proposed additions should not unduly adversely affect the use of neighboring properties.

Conversion of an Existing Residential building to an Apartment House, pursuant to Subtitle U § 320.2 and Subtitle X § 900:

Subtitle U § 320.2

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:

- (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;*

The building proposed for conversion and expansion currently exists on the property and was constructed in 1909. The Applicant has not proposed to demolish the building in total, and would therefore be on the property when the Department of Buildings accepts the building permit application as complete.

- (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*

Not applicable provided the proposal is limited to 3 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.*

The subject site has an area of 2,878 square feet, which exceeds the minimum 2,700 square feet minimum needed for three units as proposed. A lot this size would not allow more than 3 units.

Subtitle X § 901

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 subject property is zoned RF-1, which for special exception review of proposals for conversions to more than two units, provided there would be a minimum of 900 sq. ft. of lot area per unit. The Applicant states that they proposes to convert the residence to a 3-unit apartment house by special exception and the lot exceeds the area required. As such, the proposed use would be consistent with the intent of the zone and the Zoning Regulations and Maps, particularly with the OP proposed condition to ensure that space in the accessory building could not be configured to be separate dwelling units on the site, as additional units would not be consistent with the intent of the zone.

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

As provided in the analysis above, the proposed development should not adversely affect the use of neighboring properties.

V. OTHER DISTRICT AGENCIES

The Department of Transportation (DDOT) requested that OP convey to the BZA that they have reviewed the proposal and have no objections to the approval of the application.

VI. ADVISORY NEIGHBORHOOD COMMISSION

The subject property is within ANC-5D. As of the writing of this report, there is no report in the record from ANC 5D.

VII. COMMUNITY COMMENTS TO DATE

The adjacent neighbor filed for party status in opposition to the proposal but subsequently withdrew the requested party status and opposition after coming to an agreement with the Applicant to remove the accessory building.

Jl