

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Crystal Myers, Development Review Specialist
 JL Joel Lawson, Associate Director Development Review
DATE: February 21, 2025

SUBJECT: BZA Case 21235, 5058 Central Ave. SE - request to permit a second principal dwelling.

I. OFFICE OF PLANNING RECOMMENDATION

Based on the information provided to the record to date and the relevant use variance criteria, the Office of Planning (OP) recommends **denial** of the following use variance relief pursuant to Subtitle X § 1000:

- Subtitle U § 201.1 Matter of Right Uses
 (one principal dwelling unit permitted; approval of two principal dwelling units proposed)

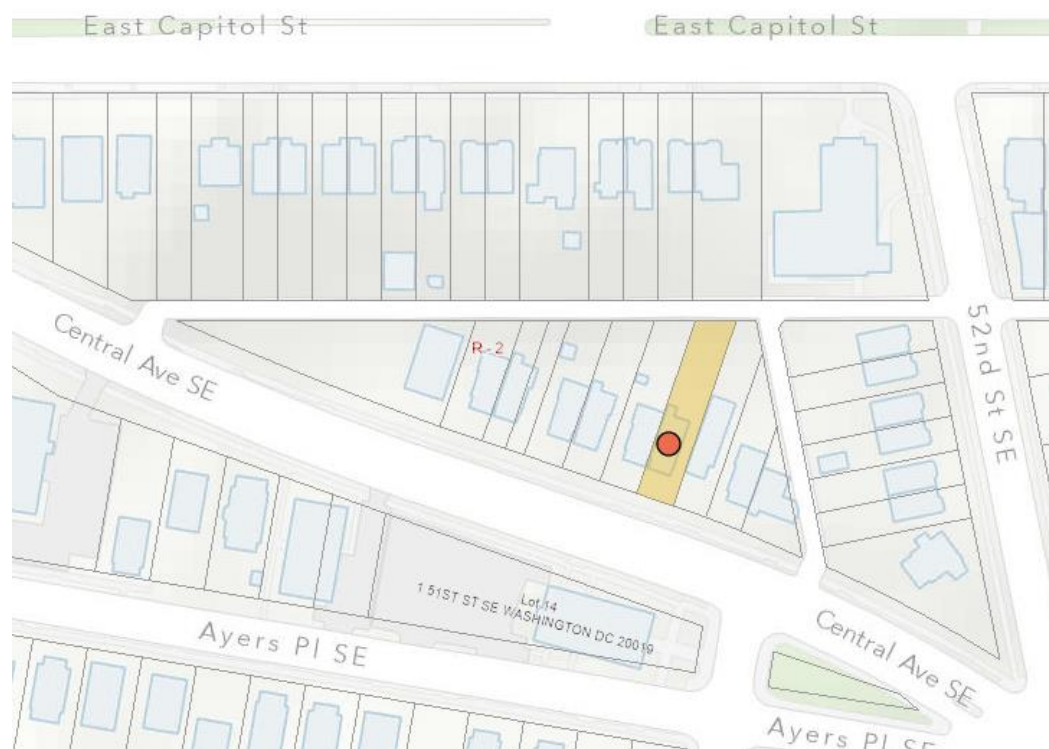
While OP recognizes that this would impact existing tenants of the building, the application does not sufficiently demonstrate an exceptional condition resulting in an undue hardship on the owner, or that this would not harm the integrity of the zoning regulations for this zone.

II. LOCATION AND SITE DESCRIPTION

| | |
|------------------------------------|---|
| Address | 5058 Central Avenue SE |
| Applicant | Cynthia Hartley on behalf of 5058 Central Ave Trust |
| Legal Description | Lot 837, Square 5286 |
| Ward, ANC | Ward 7, ANC 7C |
| Zone | R-2, low density residential zone allowing one principal unit in a detached or semi-detached form. One accessory dwelling unit also permitted by-right. |
| Lot Characteristics | Generally, a rectangular lot with an alley in the rear |
| Existing Development | Semi-detached house recently reconfigured as a two-unit building (a flat) |
| Adjacent Properties | Both adjacent properties are developed with single-dwelling houses |
| Surrounding Neighborhood Character | This residential neighborhood is predominantly composed of attached and detached single dwelling houses. |

| | |
|----------------------|--|
| Proposed Development | The Applicant converted this single dwelling house into a two-dwelling house. Both units are occupied with rental tenants – the owner does not reside on-site. The proposal would allow the second unit to remain. No additions or alterations to the building are proposed as part of this application. |
|----------------------|--|

III. LOCATION



IV. ZONING REQUIREMENTS and RELIEF REQUESTED

| Zone: R-2 | Regulation | Existing | Proposed | Relief |
|-----------------|---|--------------------|------------------------------|----------------------------------|
| Uses U § 201 | One max. principal dwelling unit permitted. | Two dwelling units | Two Principal dwelling units | Variance Relief Requested |

V. OFFICE OF PLANNING ANALYSIS

X§1000 Use Variance Relief from Subtitle U § 201.1, Matter of Right Uses

Extraordinary or Exceptional Situation Resulting in an Undue Hardship to the Owner

Extraordinary or Exceptional Situation

In 2016 the Applicant purchased the property with the intent to convert it into two rental units. Department of Building (DoB) issued a building permit ([Exhibit 7A](#)) for the property and no Certificate of Occupancy permit was needed because DoB understood the project to include one principal unit and one accessory apartment, which is permitted under zoning and does not require a Certificate of Occupancy. According to the Applicant, the development professionals who

represented her through the permit approval process informed her that the second unit was approved. Therefore, the Applicant rented out both units as she intended.

OP discussed this case with DoB staff and reviewed the emails between DoB and the Applicant ([Exhibit 7C](#)). Although the staff member who originally issued the 2017 building permit is no longer at the DoB, other staff have been able to provide details on the situation.

The building permit description of work says the project is for two units. In 2017, accessory apartments were relatively new so DoB did not have a clear way of representing them in building permits, and at the time, it was standard practice to say two units when representing single dwelling houses with accessory units. When the permit was issued, DoB discussed with the Applicant's development team that the second unit could only be used as an accessory unit because a second principal unit is not permitted by-right.

Although OP sympathizes with the Applicant's situation OP does not consider this an exceptional situation. The misunderstanding appears to mainly be between the Applicant and her development team and not with the DoB.

Resulting in an Undue Hardship to the Owner

If the relief is not granted, then at least one of the tenants in the units would have to leave, which would be a significant hardship to the tenant(s). For the owner, this would mean the loss of the rental income. She argues that the alternative options to remove the second unit or to move into the house and rent out the second unit as an accessory unit are not practical solutions. Converting the house back to its single dwelling configuration would be too costly. The option of the owner moving into the house and renting out an accessory unit would not allow her enough rental income to afford the property. OP also believes the second unit may not meet the size limits of an accessory apartment so this option may require zoning relief.

However, the property was not approved for two principal dwelling units, so the second unit is not a legal one, and the hardship to the owner does not result from an exceptional situation related to the property.

No Substantial Detriment to the Public Good

The use variance allowing the retention of the second unit should not result in substantial detriment to the public good. OP is not aware of neighborhood complaints arising from the existing situation. The Zoning Regulations allow for a second unit to be provided in the R-2 zone as an accessory apartment, but this provision requires that one of the units be occupied by the owner of the property.

No Substantial Impairment to the Zoning Regulations

Granting the requested use variance would be contrary to the intent of the zoning regulations for this zone. No exceptional situation leading to an undue hardship to the owner has been sufficiently identified on the property. Furthermore, the integrity of the Zoning regulations could be seen to be eroded if the relief were granted, particularly since the Regulations specifically provide a conforming option for a second unit - an accessory apartment - that would meet the intent of the regulations and address the Applicant's goal to provide a second unit on the site.

VI. OTHER DISTRICT AGENCIES

In an email to OP, DDOT stated they have no objection to the proposal. As of the writing of this report, there are no comments from other District agencies in the record.

VII. ADVISORY NEIGHBORHOOD COMMISSION

As of the writing of this report, no report from ANC 7C has been filed to the record.

VIII. COMMUNITY COMMENTS TO DATE

As of the writing of this report, no comments from the community have been filed to the record.