

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Shepard Beamon, Development Review Specialist
JL Joel Lawson, Associate Director Development Review

DATE: March 28, 2025

SUBJECT: BZA Case 21237: Special Exception Request for special exception relief to construct a third story on an attached four-unit apartment house at 1311 6th Street NW.

I. RECOMMENDATION

The Office of Planning (OP) recommends **approval** of the following special exception pursuant to Subtitle E § 204.4 and Subtitle X § 901:

- E § 204.1 Rooftop/Upper floor elements (Proposed: removal of original architectural rooftop elements)

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

- E § 207.1 Rear Yard (Required: 20 ft.; Existing: 0; Proposed: 14.6 ft. for 3rd floor only);
- E § 207.5 Rear Addition (Required: 10 ft., Proposed: 12 ft. 3 in. for 3rd floor only);
- E § 210.1 Lot Occupancy (Required: 60%, Existing: 78.3%; Proposed 69.2% for 3rd floor only); and

The Office of Planning (OP) recommends **approval** of the following special exception pursuant to Subtitle U § 302.2 and Subtitle X § 901:

- U § 320.2 Residential Conversion – Expansion of existing apartment building, no increase in the number of units.

The Office of Planning (OP) recommends **approval** of the following area variance pursuant to Subtitle C § 303.4 and Subtitle X § 901:

- C § 303.4 Subdivisions - Lot Frontage (Required: 30 ft.; Existing: 24 ft. 3.5 in.; Proposed: No change)

OP does not believe that the requested rear yard relief is required, since E § 207.3 states that “*an extension or addition may be made to the building into the required rear yard; provided, that the extension or addition shall be limited to that portion of the rear yard included in the building area on May 12, 1958*”; HistoryQuest indicates the existing building was constructed in 1874. However, OP has provided an analysis consistent with this self-certified application.

The property is a tax lot, which is not normally acceptable when applying for building permits and must be converted to a record lot through the normal subdivision process involving the D.C. Surveyor’s Office before permits will be issued, the exception being if the lot does not face a public street, which this property does. As such, it appears that relief from Subtitle C § 303.4 would technically be required, and the site will have to be converted to a record lot. C § 303.4 states that

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any new subdivision for an apartment building is required to provide 30 feet of frontage on a street, and this tax lot does not meet that requirement. OP raised this issue with the applicant and they have updated their application to include this additional variance relief.

II. LOCATION AND SITE DESCRIPTION

Address:	1311 6th Street NW
Applicant:	Eric Teran on behalf of Yasmin Khan
Legal Description:	Square 0480, Lot 0833
Ward / ANC:	Ward 2 ANC 2G
Zone:	RF-1, low to moderate density residential
Historic Districts	N/A
Lot Characteristics:	Interior lot measuring 2,073 sq. ft. in area
Existing Development:	Two-story, attached multiple dwelling with four dwelling units
Adjacent Properties:	Two-story, semi-detached dwelling to the south and a two-story semi-detached building operating as a funeral home.
Surrounding Neighborhood Character:	The surrounding neighborhood primarily consists of a variety of residential uses ranging from single-family to multi-family development.
Proposed Development:	Major alterations to an existing two-story, four-unit apartment house plus cellar including constructing a third story. The interior would be completely reconfigured but would maintain four dwelling units.

III. ZONING REQUIREMENTS and RELIEF REQUESTED

RF-1 Zone	Regulation	Existing	Proposed	Relief:
Density E § 201	2 principal units max.	4 dwellings	No change	None requested
Lot Width E § 202	18 ft. min.	24.37 ft.	No change	None requested
Lot Area E § 202	1,800 sq.ft. min.	2,073 sq.ft.	No change	None requested
Height E § 203	35 ft. / 3 stories max.	24.5 ft. / 2 stories	33.5 ft. / 3 stories	None requested
Roof Top Elements E § 204	A roof top architectural element original to a principal building shall not be removed or significantly altered	N/A	Removal of roof top architectural features	Relief requested

RF-1 Zone	Regulation	Existing	Proposed	Relief:
Front Yard E § 206	Block average	15 ft.	No change	None requested
Rear Yard E § 207	20 ft. min.	0 ft.	14.6 ft. (3 rd floor only)	Relief requested
Rear Yard Addition E § 207.4	10 ft. beyond the rear wall of the adjoining property	N/A	12 ft. 3 in. (3 rd Floor Only)	Relief requested
Side Yard E § 208	None required, but 5 ft. min. if provided	0 ft.	No change	None requested
Lot Occupancy E § 210	60% max. 70% spec. exception	78.3%	69.2% (3 rd Floor Only)	Relief requested
Subdivisions - Lot Frontage C § 303.4	Each new lot being created for an apartment building shall have a street frontage of not less 30 ft.	24 ft. 3.5 in.	No change	Area Variance Relief requested
Parking C § 701	1 per dwelling	N/A	1 parking space	None requested
Residential Conversion U § 320.2	Expansion that increases the number of units permitted by sp.ex.	N/A	Expansion but no increase in unit count.	Relief requested

IV. OP ANALYSIS

a. Subtitle E Chapter 204 ROOF TOP OR UPPER FLOOR ELEMENTS

The applicant seeks to add a third floor to the existing two-story four-unit apartment house. As designed, this would involve the removal and replacement of the original roofline cornice architectural element of the front of the building. These changes necessitate relief from the provision governing rooftop architectural elements. Subtitle E § 204.1 states: *in...a roof top architectural element original to a principal building such as cornices, porch roofs, a turret, tower, or dormers, shall not be removed or significantly altered, including shifting its location, changing its shape, or increasing its height, elevation, or size... in.* The Board can grant the requested relief pursuant to Subtitle E § 204.4 and X § 901. The relevant criteria are analyzed below.

204.4 The Board of Zoning Adjustment may grant relief from the requirements of Subtitle E § 204.1 as a special exception pursuant to Subtitle X, Chapter 9, and subject to the following conditions:

(a) The proposed construction shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:

(1) The light and air available to neighboring properties shall not be unduly affected;

The alteration of the architectural features, as proposed, should not have an undue impact on the light or air available to adjacent properties. The roof height increases from 24.5 ft. to 33.5 ft. The rooftop element replacement relief should not result in increased shadows on adjacent properties and any additional shadows would primarily fall on the roof areas. The building height would not extend beyond the matter-of-right height, and the front façade would not extend beyond the front facades of the neighboring houses.

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

The alteration of the front façade should not impact the privacy of adjacent neighbors. The façade of the building would not be extended beyond the existing and neighboring facades, and the front alterations would not result in any new windows looking directly onto adjacent lots.

- (3) *The proposed construction, 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 appearance of the building, including the roof top alterations for which relief is required, should not substantially visually intrude upon the character, scale, and pattern of houses along the street or alley frontage. Overall, the block does not include distinctive or consistent architectural features, materials or building heights. The applicant proposes removing the existing architecture of the rooftop elements on the second floor, adding a new cornice on the third floor similar to the existing. Since there are no prominent features to retain, it is unlikely that the proposed alterations would conflict with the character and pattern of the surrounding neighborhood.

- (b) *In demonstrating compliance with paragraph (a), the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the proposed construction to adjacent buildings and views from public ways; and*

The application materials include a plat, plans, elevations, renderings, photos, and a solar study sufficient to represent the relationship between the proposed construction to adjacent buildings and views from public ways.

- (c) *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 or nearby properties, or to maintain the general character of a block.*

OP does not recommend any special treatment to the design. The application meets the burden of proof for approval as outlined in this section.

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

The existing rooftop element – the cornice and frieze - do not match or align with the adjacent properties. Therefore, the removal of the existing rooftop architectural elements should not conflict with 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 noted above, the removal of the roof top architectural elements would not alter the character and pattern of the neighborhood as there is not currently a consistent architectural character along the street, and it should not result in undue impacts on light, air or privacy of neighbors. The applicant does not propose an increase in the number of units or the overall building footprint.

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

OP does not recommend special conditions.

b. 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 existing building exceeds the permitted lot occupancy and does not provide the required rear yard. Although this would be a “grandfathered” situation for the existing two story building, per Subtitle C § 312.6, when adding a vertical addition, each added story must comply with the required lot occupancy limitation. In this case, the applicant proposes a new third story that would exceed the maximum lot occupancy and requests relief to allow up to 69.2% lot occupancy for the third floor only, which is less than the maximum allowed by special exception. The applicant also requests relief to allow the proposed third floor to encroach into the required 20-foot rear yard and to extend more than 10 feet beyond the rear wall of the adjacent property. While Subtitle E § 207.3 allows a vertical addition within the required rear yard above a pre-1958 building, as is the case on this lot, this is a self-certified application, and OP has provided analysis accordingly.

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;

The proposed third-floor addition should not unduly impact the light or air for the neighboring properties. The requested rear yard and lot occupancy relief is only for the proposed new third floor. The applicant has submitted a solar study demonstrating the proposed and matter-of-right third floor and light impacts on the neighboring properties. When comparing the two scenarios, there is a minimal difference in shadows cast on the neighboring properties and most shadows would be over the neighboring roofs. The proposed third floor would not significantly extend beyond the rear façade of the adjacent property and should not significantly increase shadow coverage. The third floor would also maintain the nine foot setback from the south lot line, while the property to the north also has a “dogleg” setback along the common lot line, further limiting potential impacts. Although the third floor would encroach into the required rear yard, it should not completely eliminate access to light and air for the neighboring properties.

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

The proposed addition should not unduly impact the use or enjoyment of the neighboring properties as façades that abut the side property lines would not include windows that would have direct views into the neighboring properties. The building would include windows on the south side wall; however, there would be nine feet of separation from the adjacent property, which should provide privacy for both the subject property and neighbors. The applicant proposes small balconies in the open court, which could impact privacy; but they are small in size and are set well back from the common lot line which limits their potential use and impact, and there have been no objections from the adjacent 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

The proposed third floor addition would be visible from the street and alley; however, considering there are no unique architectural patterns or character in the immediate area, it is unlikely the addition would be visually intrusive or conflict with the other houses along the street. When viewed from the alley, the addition should not have an undue impact as the proposed addition would be set back from the rear lot line. The alley contains a variety of styles and building heights, so this proposal would not be inconsistent with the overall character.

(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 application materials include a site survey, sun study, plans and elevation drawings of the proposed additions, and photos of the existing conditions at Exhibits 2, 5, 6, 11 and 12.

- 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 requested relief for the proposed addition is within that which is allowed by special exception and would not expand a nonconforming use or increase the height or number of stories above what is permitted in this zone. The property would continue to be for residential use and would not increase the number of dwelling units.

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*

The requested special exception relief from the RF-1 development standards for the proposed third floor should not conflict with the general purpose and intent of the Zoning Regulations. The applicant requests a lot occupancy less than the maximum allowed by special exception for the 3rd floor only and proposes no increase in lot occupancy for the existing first and second levels. The proposed addition would also meet the height requirements for the zone. Also, the applicant does not propose to increase the number of the dwelling units, which would create a nonconforming use.

The proposed third floor would have a rear yard setback of 14.6 ft. and abuts a rear alley, which would contribute to the separation of the addition from other properties. The 12 ft. 3 in. extension is two feet three inches further than that allowed by right. As such, the upper-level addition would be more consistent with the intent of the zone than the current 1874 building is and would not result in a third floor that would be inconsistent with the intended building height, form or use.

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

The requested relief for lot occupancy and rear yard relief should not adversely affect the use of the neighboring properties. The relief would only apply to the new addition on the third floor and should not result in an undue impact on light, air or privacy for the adjacent properties.

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

OP does not recommend special conditions.

c. Subtitle U Section 320 SPECIAL EXCEPTION USES (RF)

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 pursuant to Subtitle U § 301.4 that increases the number of units, shall be permitted in any of the RF-1 zones if approved by the Board of Zoning Adjustment as a special exception pursuant to 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;*
- (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*
- (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 applicant requests a special exception to expand an existing apartment house in the RF-1 zone. Per U § 301.4, *an apartment house in any of the RF-1 zones that was converted from a residential building either prior to June 26, 2015, or pursuant to Subtitle A §§ 301.9, 301.10, or 301.11, shall be considered a conforming use and structure, but shall not be permitted to expand, either structurally or through increasing the number of units, except as provided by Subtitle U § 320.2.* According to available information, the building was constructed in the 1800s, prior to the 1958 Zoning Regulations. According to the applicant, the building was converted from a single-family dwelling to a four-unit apartment house prior to 2015, although the Certificate of Occupancy provided in the record dates from 2021.

Although the applicant proposes to expand the structure by adding a third floor, the applicant does not propose to increase the number of units. As such, an IZ set aside pursuant to 320.2(b) is not required.

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 proposal would be consistent with the purpose and intent of the RF-1 zone. Although the existing building exceeds the maximum allowed number of units for the zone, the applicant does not propose to increase this existing nonconformity. The physical expansion of the building, given the nonconformities associated with the existing 1874 structure, would result in a new third floor, which is consistent with the intent of the regulations and which is designed to be generally more consistent with the zoning requirements.

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

As noted above, the requested relief should not unduly impact the use of neighboring properties as it relates to light, air, use, and privacy of view from adjacent streets. The use of neighboring properties would not be adversely affected by approval of the special exceptions requested in the application.

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

OP does not recommend special conditions.

d. Subtitle X Section 1000 AREA VARIANCE REVIEW STANDARDS

The Board is authorized to grant the area variance relief pursuant to X § 1000, as long as the application meets the area variance test. The variance criteria are discussed below.

Extraordinary or Exceptional Situation or Condition Resulting in Practical Difficulty

Extraordinary or Exceptional Situation or Condition

The specific attributes of the subject property result in an extraordinary and exceptional situation for the applicant if the zoning regulations were strictly applied. The subject property is an existing tax lot that was developed prior to the zoning regulations and has lot frontage that is below the minimum required for lot recordation for apartment houses. There is no new land immediately available to rectify this nonconformity for subdivisions. The existing lot width of the property along with the existing use of the lot as a 4 unit apartment building create an exceptional condition that prohibits the lot from being compliant with the subdivision requirements under the zoning regulations.

Resulting Practical Difficulty

Strict application of the zoning regulation would result in practical difficulty as it prohibits the development of the property, as the lot cannot physically meet the lot frontage standard for new record lots with apartment houses. Granting this relief would allow the recordation of the property as a lot of record, and allow the applicant to begin the project.

No Substantial Detriment to the Public Good

The granting of the variance to lot frontage for the existing lot would permit the expansion of the existing apartment house. As proposed, the building would detract from the scale and character with the surrounding development as there is no uniform architectural pattern. The existing 24 ft. 3.5 in. wide lot frontage is in keeping with that of other homes on the same block-face. The proposal would not increase the number of dwelling units and should not negatively impact neighboring properties once construction is completed. Therefore, the requested variances should not result in substantial detriment to the public good.

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

The requested variance is necessary for the applicant to convert a tax lot to a record lot and enlarge an existing apartment building. Without the relief, no building permit can be issued, and no improvements can occur. The proposal is designed not to exceed the maximum building height or increase the existing number of dwelling units currently on the property. Therefore, the requested relief should not result in a substantial impairment to the Intent, Purpose, and Integrity of the Zoning Regulations.

V. OTHER DISTRICT AGENCIES

DDOT has informed OP that they have no objection to the requested relief and will not submit a report for this case.

VI. ADVISORY NEIGHBORHOOD COMMISSION

ANC 2G has provided a letter of support for the requested relief to the record.

VII. COMMUNITY COMMENTS

To date, there are no letters from the community submitted to the record.

LOCATION MAP

