



MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Maxine Brown-Roberts, Development Review Specialist
JL Joel Lawson, Associate Director Development Review

DATE: May 29, 2025

SUBJECT: BZA Case 21295: Request for special exception relief to allow retention of a rear deck at 1151 Abbey Place, NE.

I. OFFICE OF PLANNING RECOMMENDATION

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

- Lot Occupancy E § 210.1 (60% permitted or 70% by special exception; 90% existing / requested)

In the Applicant's original submission, there were errors in measurements and calculations on the site plan. The Applicant later provided updated plans to the Zoning Administrator's (ZA) office and at [Exhibit 34](#)¹, is the latest computations provided by the ZA's Office showing the lot occupancy being increased to 90% with the deck and spiral stairs. OP consulted with the ZA's office and was told that using the measuring tool in ProjectDOx the lot occupancy would be 90%.

OP also recommends **approval** of the special exception for the rear yard, pursuant to Subtitle D § 5201 and Subtitle X § 901:

- Rear Yard E § 207.1 (20 ft. required, 12.75 ft. existing; 0 ft. proposed)

II. LOCATION AND SITE DESCRIPTION

Address	1151 Abbey Place, NE
Applicants	Justin Ryan Gomez and Jesse Martinez Jr.
Legal Description	Square 773, Lot 199
Ward, ANC	Ward 6 ANC 6C
Zone	RF-1 - low to moderate density residential
Historic Districts	N/A
Lot Characteristics	The 1,038 sq.ft. rectangular lot along Abbey Place, NE and abuts a 15-foot wide rear alley. The property slopes down from the street to the alley.

¹ On the Notes and Computation sheet, the existing building area is shown as 656 sq. ft. which the ZA's Office has identified as a typographical error and should read as 688 sq. ft. The Applicant was advised to obtain a revised referral letter from the ZA's Office.

Existing Development	The lot is currently improved with a two-story, detached principal dwelling unit with a basement and a rear deck off the main floor. A parking space is below the deck
Adjacent Properties	Single family row dwellings.
Surrounding Neighborhood Character	The surrounding neighborhood character is generally row dwellings.
Proposed Development	Retention of an existing deck addition, constructed by a previous owner without a permit, off the first floor of the house.

Site Location



III. ZONING REQUIREMENTS and RELIEF REQUESTED

RF-1 Zone	Regulation	Existing	Proposed	Relief
Lot Width	18 ft. min.	16 ft.	No change	None requested
Lot Area	1,800 sq. ft. min.	1,038 sq. ft. .	No change	None requested
Rear Yard	20 ft. min.	12.75 ft.	0 ft.	SE Relief requested
Lot Occupancy	60% max. by right 70% by sp. ex.	63%	90%	Area Variance Relief requested
Parking	1 space per principal dwelling unit.	1 space	No change	None requested

IV. OP ANALYSIS

a. Subtitle X Section 1000 AREA 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

a. Extraordinary or Exceptional Situation

In this case, the Applicant cites lot size as a unique circumstance. The subject property was created prior to the current zoning regulations and, at 1,038 square feet, it is smaller than the current required lot area for this zone (1,800 sq. ft.). The property is similar in size or larger than most other lots on this square or those in adjacent squares facing Abbey Place, NE or 4th Street, NE.

It appears that the lot and others facing Abbey Place, NE slope down from the street to the alley, making the main floor of the house being substantially raised above grade and making the existing deck well above the grade at the rear, so it counts towards lot occupancy. This is not a unique circumstance on the block, or throughout DC. However, any viable or reasonable outdoor use of the rear of the property would be limited as access to the ground level or to a conforming deck (no more than 4 feet above grade) via a stair and landing in addition to the required off-street parking space would consume the entire rear yard. As a result, the Applicant cannot utilize the rear yard in the same way that a typical RF-1 homeowner might. Having the deck at the main floor level of the house allows the retention and continued use of the parking area below the deck. Removal of the parking pad to accommodate a usable rear yard or a deck that would not count towards lot occupancy would require different, special exception relief for relief from the provision of off-street parking.

b. Exceptional Practical Difficulties

The practical difficulty would be that there is no reasonable alternative to the owner to provide conforming usable open space to the rear of the house without removal of the parking space, which would require parking relief from the zoning regulations. In addition, the current owner states that the house was purchased in 2024 with the deck in place by a previous owner, and that reducing its size or removing the deck would be costly and a practical difficulty.

No Substantial Detriment to the Public Good

The requested relief for lot occupancy for the rear deck would not likely be a substantial detriment to the public good and, since it is existing, has not proven to be a detriment to the public good. The deck is not visible from Abbey Place, but similar to other decks, is visible from the alley. Other decks along the alley are of varying heights, color, materials and sizes. The deck is not dissimilar to other decks along the alley, so is not substantially different from the character, scale and pattern of deck and houses along the alley. The deck allows for retention of the required one parking space on

the property, and therefore does not impede traffic movements along the alley. The deck is open and does not cast significant shadows on the adjacent properties. As with all other decks along the alley, views from the deck onto other properties are possible. Some property owners have fencing around their decks to protect their privacy although it is not the majority of the decks along the alley. Adjacent neighbors to the north, south and east have provided letters of support for the deck at Exhibits 28, 31, and 35.

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

In this case, the house was constructed prior to the 1958 Zoning Regulations and is already a nonconforming building in the RF-1 zone for lot occupancy. The proposed increase in permitted lot occupancy is for the existing deck, located over a parking area. The deck, would not appear to result in a building form, bulk height or use unanticipated in zoning, and should not appear as an over-development of the site on the block. As such, in this instance, the proposal does not appear to result in significant impairment to the intent or integrity of the RF-1 zone.

b. Subtitle E § 5201 REAR YARD RELIEF FOR AN ADDITION TO A BUILDING

5201.1 For an addition to a principal residential building with one (1) principal dwelling unit 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.*

In addition to area variance relief from lot occupancy requirement addressed above, the Applicant has requested special exception relief from rear yard setback requirement.

5201.2 and 5201.3 Not applicable to this application.

5201.4 An application for special exception relief under this section shall demonstrate that the proposed addition, new principal building, or accessory structure shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, specifically:

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

The deck is open, uncovered and is off the main level of the house. The area below the deck is also not enclosed except by fencing along the property line and does not appear to unduly affect the light and air available to adjacent or other neighboring properties.

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

The existing deck has views towards decks and rear yards of the adjacent properties to the north and south and into properties across the alley. A majority of the lots in the square and along the alley have open decks, although some are enclosed, and some are above enclosed garages. In this urban

setting, it has to be anticipated that views are possible. From the photographs at [Exhibit 27](#), it seems that some property owners, such as those to the west of the property and directly across the alley, have taken steps to secure their privacy and the privacy of others through privacy fences.

(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 deck is not visible from Abbey Place, but similar to other decks, would be visible from the alley. The decks along the alley are of varying heights, color, materials and sizes.

However, the proposed deck is one level, rectangular and is similar to other decks along the alley and therefore should not substantially visually intrude upon 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 plans, elevations, and photographs into the record with the latest at Exhibits 27, and 30A to 30D.

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 additional 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 house would continue to be used as a residence consistent with the RF-1 zone and has requested relief from the lot occupancy and rear yard standards. It has been demonstrated above that the proposal adequately meets the standard for granting the relief requested. No change to the building height or use is being made or requested.

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 deck would be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps because it would not result in a structure that would be inconsistent with the RF-1 Zone in terms of bulk, use, or height.

(b) *Will not tend to affect adversely, the use of neighboring property in accordance with the*

Zoning Regulations and Zoning Maps; and

As discussed, the deck should not adversely affect the use of neighboring properties. The deck is similar to other existing decks in the neighborhood and would not compromise the privacy of use and enjoyment of adjacent properties.

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

Special conditions have not been specified for the subject application.

V. OTHER DISTRICT AGENCIES

The Department of Transportation (DDOT) has asked OP to convey to the BZA that they have no objection to the approval of the application.

VI. ADVISORY NEIGHBORHOOD COMMISSION

As of the date of this report, ANC 6C had not provided a recommendation to the record.

VII. COMMUNITY COMMENTS

At the time of the report, letters in support of the application are at Exhibits 28, 31, 35, 35, 38 and 39.