


## MEMORANDUM

**TO:** District of Columbia Board of Zoning Adjustment

**FROM:** Michael Jurkovic, AICP, Development Review Specialist  
 Joel Lawson, Associate Director Development Review

**DATE:** September 17, 2025

**SUBJECT:** BZA Case 21328, Request for area variance and special exception relief to permit a rear addition of an 11-story apartment with penthouse and basement at 471-473 H Street NW.

### **I. OFFICE OF PLANNING RECOMMENDATION**

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

- Subtitle I § 205.5, Minimum Rear Yard (23 ft. minimum required; 15.5 existing; 10 ft. proposed);

OP recommends **approval** of the following special exception relief pursuant to Subtitle C § 1506 and Subtitle X § 901.2:

- Subtitle C § 1504.1(b), Penthouse Rear Setback (9 ft. minimum required; 0 ft. proposed)

### **II. LOCATION AND SITE DESCRIPTION**

Address	471- 473 H Street NW
Applicant	Venable LLP and H Street DC LLC on behalf of Chistopher Hauser
Legal Description	Square 517; Lots 834 & 835
Ward, ANC	Ward 6; ANC 6E
Zone	D-4-R
Historic District	Downtown Historic District
Downtown Subarea	Massachusetts Avenue Corridor and Mt Vernon Square
Lot Characteristics	Interior rectangular lots together measuring 40.5 ft. x 100 ft.
Existing Development	Two three-story historic rowhouses used as office buildings
Adjacent Properties	Large Multi-family building to the North and East with a commercial building to the west.
Surrounding Neighborhood Character	High Density Mix-Used Neighborhood

Proposed Development	Renovation of the existing row structures and the construction of a new 11-story building to the rear for a total of 48 affordable rental units.
----------------------	--

### III. ZONING REQUIREMENTS and RELIEF REQUESTED

Zone- D-4-R	Regulation	Existing	Proposed <sup>1</sup>	Relief
Density I § 200	No limit except 6.0 FAR over Historic Portions	1.78 FAR	7.26 FAR, no change to historic structures.	None Requested
Height I § 201 & 532	90 ft. max for historic structures; 110 ft. max. for 90 ft. ROW <sup>1</sup>	43 ft.	No change to historic; 110 ft. for new building	None Requested
Penthouse Height I § 532 & C § 1502	20 ft. max; 1 habitable story plus mezzanine & 1 mechanical story	None	9 ft. and 1 story	None Requested
<b>Penthouse Rear Setback C § 1504.1(b)</b>	<b>Distance equal to the height of the penthouse. (9 ft.)</b>	N/A	<b>No Setback</b>	<b>Relief Requested</b>
Lot Occupancy I § 202	100%	57.25%	98.68%	None Requested
<b>Rear Yard I § 205</b>	<b>2.5 in. per 1 ft. in height min. (23 ft. min)</b>	<b>15.5 ft.</b>	<b>10 ft.</b>	<b>Relief Requested</b>
GAR I § 208	0.20 min.	0	0.46	None Requested
Vehicle Parking C § 701	N/A	1 space	0 spaces	None Requested
Bicycle Parking C § 801	1 Long-Term space per 3 units; 1 Short-Term Space per 20 units	0	16 Long-Term spaces; 2 Short-Term Spaces	None Requested

<sup>1</sup> Per the applicant.

Zone- D-4-R	Regulation	Existing	Proposed <sup>1</sup>	Relief
Loading C § 801	1 Loading & 1 Service/Delivery spaces for more than 50 Residential Units	N/A (Less than 50 units)	1 Loading Space	None Requested

#### IV. OFFICE OF PLANNING ANALYSIS

##### a. REAR YARD SETBACK - Area Variance Relief from Subtitle I § 205.5

##### 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 has presented several factors which contribute. Specifically, the form of the existing historic row buildings constrains the development potential of the property, in that the portion they occupy comes with the inability to remove or build vertical additions. As such, the historic nature of the site presents an exceptional situation or condition of the property.

##### *Resulting Practical Difficulty*

The granting of a variance to the minimum required rear yard would allow the construction of the proposed 11-story structure containing the majority of the 48 proposed all affordable units. Per the applicant, failure to obtain the requested relief would result in a redevelopment of potentially only 30 units and would make the overall project no longer feasible. Therefore, due to the historic nature of the properties and the required preservation of their current form which prevents the vertical improvement of most of the property. There does appear to be an extraordinary or exceptional situation or condition resulting in a practical difficulty in the construction of a 48-unit apartment within the development requirements of the zone.

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

The requested relief from the rear yard should not be detrimental to the public good as the rear of the building abuts a 24-foot public alley and the limited redevelopment would still allow access to adequate light or air to the adjacent properties. The applicant has provided a shadow study (Exhibit #17, pgs. 6-9) comparing a building with a compliant rear yard to that of the proposed building. As demonstrated, the projected shadows are not substantial and should not have a significant impact on surrounding properties.

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

The D-4-R Zone is intended to permit new high-density development and that among other goals imagines developments which protect historic buildings and provide housing, especially affordable housing. In conjunction with the rear public alley, the proposed building should be sufficiently separated from the surrounding properties. The relief would not result in a building that would be of a bulk, height, or intensity of use unanticipated by the zone. Therefore, the requested rear yard relief to construct a new building to facilitate the development of 48 affordable units in conjunction with preserving the existing historic structures should not result in substantial impairment to the intent, purpose, and integrity of the zoning regulations.

**b. PENTHOUSE REAR SETBACK: Special Exception Relief from Subtitle C § 1504.1(b)**

**Subtitle X Section 1506 RELIEF FROM PENTHOUSE OR ROOFTOP STRUCTURE REQUIREMENTS**

*1506.1 Relief from the requirements of Subtitle C §§ 1503 and 1504 may be granted as a special exception by the Board of Zoning Adjustment subject to:*

*(a) The special exception requirements of Subtitle X, Chapter 9;*

*Analysis provided below.*

*(b) The applicant's demonstration that reasonable effort has been made for the housing for mechanical equipment, stairway, and elevator penthouses to be in compliance with the required setbacks; and*

*Per the applicant, without the requested relief, the penthouse would not be able to accommodate the mechanical equipment and stairwell needed for the building. Penthouse floorplans overlaying with the by-right setback are shown at Exhibit #17A, pg. 16.*

*(c) The applicant's demonstration of at least one (1) of the following:*

***(1) The strict application of the requirements of this chapter would result in construction that is unduly restrictive, prohibitively costly, or unreasonable, or is inconsistent with building codes;***

*Per the applicant, due to the existing footprints of the historic buildings, adhering to the required 1:1 setback would result in a penthouse that would*

not be able to accommodate the needed mechanical and stairwell access needed to the redevelopment at the site.

- (2) *The relief requested would result in a better design of the penthouse or rooftop structure without appearing to be an extension of the building wall;*
- (3) *The relief requested would result in a penthouse or rooftop structure that is visually less intrusive; or*
- (4) ***Operating difficulties such as meeting D.C. Construction Code, Title 12 DCMR requirements for roof access and stairwell separation or elevator stack location to achieve reasonable efficiencies in lower floors; size of Subtitle C § 115 building lot; or other conditions relating to the building or surrounding area make full compliance unduly restrictive, prohibitively costly or unreasonable.***

Per, the applicant, the historic buildings on the property greatly limit the developable area of the site and any proposed improvements at the site would be significantly constrained without the penthouse setback relief.

#### **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 proposed redevelopment of the site would be consistent with the intent and purpose of the D-4-R zone in both intensity and use, especially in that it seeks to preserve the existing historic structure while providing 48 affordable units.

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

Per the applicant's rendering at Exhibit #17A, pg. 4, the proposed penthouse should not be readily visible from either 5<sup>th</sup> Street or H Street and as discussed previously in this report, the shadows cast should have little to no impact on the surrounding development, especially given the existing height and bulk to the north and east. Therefore, the resulted relief should not adversely affect neighboring properties any more than anticipated in a Downtown zone.

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

As discussed above, the relief sought will meet all special exception criteria associated with the requested relief.

#### **V. OTHER DISTRICT AGENCIES**

DDOT has submitted a report to the record at Exhibit #22.

## VI. ADVISORY NEIGHBORHOOD COMMISSION

At Exhibit # 19, ANC 6E has provided a report in support of the application.

## VII. COMMUNITY COMMENTS TO DATE

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

