District of Columbia
Office of Planning

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Karen Thomas, Development Review Specialist
MBR
Maxine Brown Roberts, Associate Director Development Review

DATE: October 23, 2026

SUBJECT: BZA Case 21349A: **SUPPLEMENTAL**: Modification of Order for the construction of a new, detached, two-story accessory structure without a garage, in the RF-1 zone:

I. RECOMMENDATION

Ileana Schinder on behalf of Ed Fendley (Applicant) requests a Modification with Hearing pursuant to Subtitle Y § 704 to modify BZA Order 21349.

The Office of Planning (OP) recommends **approval** of the requested modification with hearing and the following relief:

- Special Exception relief pursuant to Subtitle U § 301.1(c)(2)(B) and Subtitle X § 901: **Permanent access** (15 feet alley width required from the accessory building to the street; 10 feet alley width existing);

II. BACKGROUND

BZA 21349, October 21, 2025, approved the following special exception relief Exhibit 44 of Application 21349:

- U § 301.1(e), Accessory Building pre-Jan.1 2013: (New structure); and
- C § 703.2, Parking : No parking provided.

Subsequently, the Department of Buildings (DOB) at permit review, determined that additional relief was required. Exhibit 12 outlines the additional relief needed. Thereafter, based on discussions with OP, the Applicant amended its plans to eliminate the need for the alley centerline setback, Exhibits 38, 39 and 40. However, variance relief was still required at the time from the permanent access requirement for a 15-feet alley width, since the accessory structure abutted a **10-feet wide alley** per Subtitle U § 301.1 (c) (2) (B).

At subsequent hearings by the Board on May 13, 2026, June 17, 2026, and September 2, 2026, the Board was not persuaded that the variance tests were satisfied to grant relief and instructed the Applicant to note that newly approved text amendment ZC 25-12, effective July 12, 2026, may allow special exception relief from this requirement under amended Subtitle U§301.1 (c) (5). The Applicant was then requested to confirm this through a Zoning Administrator's (ZA) determination to the record, prior to the continued Board hearing on November 4, 2026.

The ZA has not submitted a determination letter in the record to date. In its absence, the Applicant has submitted a revised self-certification at Exhibit 59 and a copy of the request to DOB via email at Exhibit 63. ZC Order 25-12 (See Exhibit 64) state:

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Subtitle U § 301.1(c)(5).

> *Any proposed use of an accessory building for a dwelling unit* ***not meeting the provisions of Subtitle U §§ 301.1 (c) through (e) shall be permitted as a special exception approval*** *pursuant to Subtitle X Chapter 9*[1].

The application still does not meet the permanent access requirement of Subtitle U § 301.1(c)(2)(B) but can now be assessed as a special exception. Therefore, this supplemental will include the required review for permanent access as a special exception pursuant to Subtitle X Chapter 9. This supersedes OP's report in the record at Exhibit 41 to reflect the requirement pursuant to the amended text.

OP continues to support special exception relief granted under BZA Order 21349, including:

- U § 301.1(e), Accessory Building pre-Jan.1 2013: (New structure); and
- C § 703.2, Parking : No parking provided.

III. LOCATION AND SITE DESCRIPTION

See OP Report at Exhibit 41.

IV. ZONING REQUIREMENTS and RELIEF REQUESTED

RF-1 Zone	Regulation	Existing	Proposed [2]	Relief:
Density E § 201	2 principal units max.; accessory units prohibited.	1 principal unit	2 principal units (1 within principal structure and 1 in an accessory structure.)	None Requested
Lot Width E § 202	18 ft. min.	16 ft.	No Change	Existing Non-conformance.
Lot Area E § 202	1,800 sq. ft. min.	1,600 sq. ft.	No Change	Existing Non-conformance.
Rear Yard E § 207	20 ft. min.	54 feet 7 ins ft.	No Change	None requested
Side Yard E § 208	None required, but 5 ft. min. if provided	N/A	N/A	None requested
Lot Occupancy E § 210	60% max.	40%	58%	None requested
Acc. Building Height E § 5002	22 ft. and two stories maximum.	N/A	20 ft. and two stories.	None requested
Acc. Building Area E § 5003	450 sq. ft. or 30% of the required rear yard, whichever is greater.	N/A	244 sq. ft.	None requested
Acc. Building Use E § 5006	1 principal dwelling unit and/or private vehicular garage.	N/A	1 dwelling unit and no garage.	Relief Requested for no parking

[1] Emphasis added
[2] Provided by the applicant.

RF-1 Zone	Regulation	Existing	Proposed [2]	Relief:
Parking C § 701	1 space per 2 dwelling units	1 space	No space	**Relief Approved : Order 21349**
Accessory Building U § 301.1 (e)	New dwelling unit allowed in an accessory building constructed pre-Jan. 1, 2013	n/a	New unit proposed in a new accessory building	**Relief Approved:** **Order 21349**
Access requirement: Alley width **U § 301.1(c)(2)(B)**	A minimum 15 feet alley width and within 300 linear feet of a public street.	10 feet alley width connecting to public street within 125 feet.	**Same as existing**	**Special Exception**
Acc. Building Setback E § 5004	7.5 ft. from the centerline of any alley.	N/A	10.5 feet	None requested

V. OP ANALYSIS

ACCESSORY STRUCTURE: Subtitle U § 301 MATTER OF RIGHT USES (RF)

Subtitle U Chapter 3 USE PERMISSIONS RESIDENTIAL FLATS (RF) ZONES

To allow one of the proposed units to be in an accessory building (U § 301.1(c)).

(c) A permitted principal dwelling unit within an accessory building subject to the following conditions of:

(1) There shall be permanent access to the accessory building dwelling from a dedicated and improved right of way; and

There is permanent access to the approved structure from an improved 10 feet-wide alley which exits to 14th Place, NE. (See Location Map).

(2) Permanent access shall be provided by one (1) of the following:

(A) An easement for a permanent passage, open to the sky, no narrower than eight feet (8 ft.) in width, and extending from the accessory building to a public street through a side setback recorded in the land records of the District of Columbia;

N/A *or*

(B) Through an improved public alley or alleys with an alley width of not less than fifteen feet (15 ft.) at any point between the lot and a public street;

The accessory building would have permanent access via a ten-foot (10 ft.) wide improved alley which is within 125 feet of 14th Place, N.E., satisfying the distance requirement of a maximum of 300 feet linear distance **but not the minimum alley width requirement of 15 feet**.

Relief from the above is permitted as a special exception per Subtitle U § 301.1(c)(5) as requested.

(3) An accessory building that houses a principal dwelling unit shall not have a roof deck;

According to submitted plans at Exhibit 42C, a roof deck is not included in the plan.

(4) An accessory building that houses a principal dwelling unit shall not be used simultaneously for any accessory use other than as a private vehicle garage for a dwelling unit on the lot, storage, or as an artist studio; and

The accessory building would only house the principal dwelling unit as stated by the Applicant and relief has been granted from the parking requirement. The space would only be designed as living space for the second principal dwelling on the lot as described.

(5) Any proposed use of an accessory building for a dwelling unit not meeting the provisions of Subtitle U §§ 301.1 (c) through (e) shall be permitted as a special exception approval pursuant to Subtitle X Chapter 9.

The requested relief under item (c) (2) (B) above is reviewed subsequently.

Subtitle X -Chapter 9 - Special Exception Relief from Subtitle U § 301.1(c)(2)(B)

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 RF-1 zone anticipates moderate-density residential use and allows accessory structures and accessory dwelling units subject to specific development standards under special exception relief, which was approved. The current relief requested arises from a unique alley-width condition rather than from an attempt to increase density or intensity beyond what the zone contemplates.

The subject property is accessed solely by a 10-foot-wide permanent alley, which is narrower than the 15-foot alley width required under Subtitle U §301.1 for the creation of new accessory structures. This narrow alley is a fixed, longstanding physical condition that predates the Regulations. The purpose of the 15-foot alley width requirement is to ensure adequate access and maneuvering for vehicles, including service vehicles. In this case, however:

- No on-site parking is proposed**,** and
- Relief from the parking requirement has been granted under the original BZA approval.

Therefore, the project does not rely on vehicular access for parking or maneuvering. Trash and service vehicles would continue to use the alley in the same manner they do today, and the project would not introduce new vehicular demands that the alley cannot accommodate.

Because the alley width requirement is triggered solely by the creation of the accessory unit- not by any operational need for vehicle access- the strict application of the 15-foot standard would not impair the intent of the Regulations. A dwelling unit without parking was reviewed and per the District Department of Transportation's comments (Exhibit 30) …*vehicle access will not be constrained by the alley width.*

Basic objectives related to access, safety, or neighborhood character, would not be undermined and it preserves the overall integrity of the zoning framework by enabling reasonable use of the property in a manner consistent with BZA Order 21349 and the underlying zoning intent.

Therefore, relief would be in harmony with the intent and purpose of the Regulations.

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

The proposal also satisfies the alley setback requirement of 7.5 feet from the alley centerline. Further, the requested relief does not alter the approved use of the accessory structure, does not increase the building's visible massing, and does not introduce new impacts on light, air, privacy, or access for neighboring properties. The dwelling unit would not provide garage parking so that vehicular maneuvers into and out of the accessory structure would not occur in the alley due to the relief and as stated under DDOT's prior recommendation, vehicle access is not constrained by the alley's width.

Changes are not proposed that would generate additional traffic, noise, or other external effects beyond what was already contemplated under the original approval. As a result, the requested relief would not impair the use or enjoyment of nearby properties or otherwise adversely affect the public good.

(c) Will meet such special conditions as may be specified in this title.

There are no other special conditions specified beyond the discussion under U§ 301.1 (c)(2).

VI. OTHER DISTRICT AGENCIES

There are no comments from other District agencies in the record at the writing of this report. DDOT's report is at Exhibit 37.

VII. ADVISORY NEIGHBORHOOD COMMISSION

The ANC 6A at its regularly held meeting on April 6, 2026, voted unanimously to support the application. (Exhibit 35) under the higher burden of variance relief.

VIII. COMMUNITY COMMENTS

Community comments were not provided to the record at the writing of this report.

Figure 1: Location Map

