

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Philip Bradford, AICP, Development Review Specialist
MBR Maxine Brown-Roberts, Associate Director, Development Review

DATE: May 29, 2026

SUBJECT: BZA Case 21440: To permit a 2.5 story plus basement addition to an existing 2.5 story plus basement principal dwelling unit with an accessory apartment.

I. OFFICE OF PLANNING RECOMMENDATION

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

- Side Yard Requirements, D § 208.2 (8 ft. required on both sides, 16.22 ft. on the north side and 4.96 ft. on the south side existing; no change proposed)

II. LOCATION AND SITE DESCRIPTION

Address:	6117 32 nd Place, NW
Applicants:	Paul and Katherine Rosenbaum represented by Sullivan & Barros, LLP
Legal Description:	Square 2019, Lot 0008
Ward / ANC:	Ward 4 / ANC 3/4G
Zone:	R-1B
Lot Characteristics:	Rectangular lot, 50 feet in width by 127 feet in depth.
Existing Development:	Single unit detached, two and a half story plus basement principal building with an accessory apartment.
Adjacent Properties:	Single unit detached dwellings on all sides.
Surrounding Neighborhood Character:	Low density residential in character primarily developed with single unit, detached dwellings.
Proposed Development:	The applicant proposes an addition to the existing principal dwelling unit, maintaining the existing non-conforming side yard on the northern side of the principal building.

III. ZONING REQUIREMENTS and RELIEF REQUESTED

R Zone	Regulation	Existing	Proposed	Relief
Lot Width D § 202 (302)	50 ft. min.	50 ft.	No change.	None requested.
Lot Area D § 202	5,000 sq. ft. min.	6,850 sq. ft.	No change.	None requested.
Height D § 203	40 ft. max.	32.92 ft.	32.9 ft.	None requested.
Front Setback D § 206	Within range of existing adjacent structures.	Within range.	Within range.	None requested.
Rear Yard D § 207	25 ft. min.	47. 81 ft.	No change.	None requested.
Side Yard D § 207	8 ft. min. both sides.	4.96 ft. north side.	4.96 ft. north side.	Area Variance requested.
Lot Occupancy D § 210	40% max. by right 50% max by sp. ex.	Information not provided.	27%	None requested.
Parking C § 701	1 space min.	1 space.	2 spaces.	None requested.

IV. OP ANALYSIS

Background

The applicant applied for a building permit (B2504679) with a description of work stating “Complete interior remodel and addition to existing single-family home. All new building systems and finishes. Home will be unoccupied during construction.” The permit was issued containing conditions / restrictions that stated the following:

AN ‘ABOVE GRADE’ WALL CHECK IS REQUIRED BY THE BUILDING CODE FOR THIS BUILDING PERMIT AND MAY BE REQUIRED FOR REVISIONS THAT IMPACT THE BUILDING FOOTPRINT. The owner may not schedule a DCRA or Third Party foundation or framing inspection without a DCRA approved ‘above grade’ wall check.

A wall check was completed and provided to DOB, after which an email was sent to the applicant, [Exhibit 14](#), which outlined the issues facing the project revealed by the wall check plat. Based on information in the record from the applicant and a letter at [Exhibit 4](#) from DOB in BZA Appeal [Case No. 21486](#) regarding the same property, the wall check plat revealed that the north wall of the existing structure had been removed to the extent it constitutes a zoning raze and thus loses its non-conforming status. Given that the [wall check](#) at this stage occurs at completion of the foundation walls, significant construction occurred on the building between the issues uncovered by the wall check and the date DOB issued a stop work order for exceeding the scope of the building permit.

The same day, the applicant filed the area variance request to reduce the side yard as now the principal dwelling unit is considered a new construction for zoning purposes where a reduced side yard would not be able to be approved by special exception as the property is a standard R-1B lot meeting the width and lot area development standards.

A full timeline of the project is summarized in the table below:

Date	Action taken	Notes
April 23, 2025	Submission of building permit application, B2504679	
September 23, 2025	Permit issued by DOB, Exhibit 12	Permit contained conditions requiring a wall check.
November 21, 2025	Wall check done	Wall check plat noted “Exist. Bldg. Demolished”
December 9, 2025	E-mail from DOB to applicant regarding the side yard issue	Project now constitutes a zoning raze and must be reviewed as a new construction.
December 29 th , 2025	A stop work order was issued due to the Applicant continued construction	
December 29 th , 2025	Applicant files for area variance	

Subtitle X § 1002 Area Variance Review Standards

i. Extraordinary or Exceptional Situation or Condition Resulting in Peculiar and Exceptional Practical Difficulties / Exceptional or Undue Hardship To the Property Owner

a. Extraordinary or Exceptional Situation

The subject property is zoned R-1B which has a minimum lot width of 50 feet and minimum lot area of 5,000 square feet. The subject property is rectangular in shape and meets the lot width and exceeds the lot area requirements, therefore there is nothing extraordinary or exceptional about the property itself. The principal dwelling unit was constructed with an insufficient side yard of 4.96 ft on the northern side of the property. While this is not a desirable situation, the code anticipates non-conforming situations with provisions such as D § 208.7 that allow existing non-conforming side yards to be maintained through additions or extensions provided that the side yard is a minimum of five feet and the existing side yard is not reduced or eliminated.

The applicant’s argument focuses on the permitting situation resulting in the extraordinary or exceptional situation and that they relied on the DOB approvals and did not foresee a retroactive reclassification from an addition to a raze and new construction. After viewing photographs of the existing structure and the plans and elevations provided for the proposed addition, it is clear to OP that the changes are significant.

Given the known non-conforming status, the onus is on the applicant to examine the zoning regulations pertaining to non-conforming side yards, and the zoning interpretation for [Demolition vs. Raze for Zoning Purposes](#) while not codified, is clearly listed on the DOB website. Therefore, OP does not believe the situation facing the applicant is extraordinary or exceptional, as it could have been avoided given additional due diligence regarding district regulations and proper oversight and management during the construction process.



OP conducted a site visit and observed that all the walls above the foundation appear to be new with nothing retained of the old structure other than a small portion of the basement level wall, indicated in red in the photo above. Viewing the site in person, this immediately appears as a new construction dwelling and not an addition. While OP is unable to do the calculations on what percentage of the walls were retained, it is also clear that based on the amount of new walls it would be mathematically impossible to be within the 40-50% range described in the Demolition vs Raze Memo. Based on the timeline above the majority of the framing was carried out between December 9th and December 29th, when construction should have been paused to resolve this issue. With building so much of the structure after becoming aware of the reclassification as a new construction and the zoning issues this entails, the situation appears to be self created or at the very least, exacerbated by the project team.

b. Exceptional Practical Difficulties / Exceptional or Undue Hardship

The second prong of the variance test focuses on whether a strict application of the Zoning Regulations would result in a practical difficulty to the applicant. The applicant's statement includes information about the significant expense in demolishing the portion of the house within the 8 feet side yard and relocating the structure further south would exceed \$300,000. While OP recognizes the significant cost and sympathizes with the homeowner in this case, based on the information available to OP, from the permit history and DOB communication in the record, the applicant **continued to frame the structure after the issue arose via the wall check plat, thus exacerbating the reconstruction required.** Had the applicant maintained the correct percentage of the existing structure as required, they would be able to maintain the non-conforming side yards and not been reclassified as a raze and new construction.

ii. No Substantial Detriment to the Public Good

Granting the requested area variance would not likely result in a substantial detriment to the public good. While the side yard would be reduced by nearly half the required width by granting variance,

the original principal structure was non-conforming without any issues to the public and maintaining it would have minimal visual change. There are also numerous letters of support in the record indicating that the immediate surrounding neighbors are not opposed to the variance.

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

The intent of the R zones is to provide for low to moderate density residential areas, with the R-1B zone specifically to protect quiet residential areas developed with detached houses. As a zone intended to be for detached houses on moderately sized lots, one way of achieving this purpose is through the setback development standard which requires 8 feet on both sides establishing 16 feet between two detached units enforcing an orderly, spacious development pattern of detached dwellings. This differs from the smaller 5-foot side yards required for semi-detached dwellings or those in the denser RF Residential Flat Zones. Permitting a variance for what is now considered a new construction dwelling to be built with a side yard of 4 feet 9 inches would impair the purpose and intent of the zoning regulations as it would be inconsistent with the zone and development pattern encouraged by the development standards.

V. OTHER DISTRICT AGENCIES

At the writing of this report, there are no comments in the record from any other District agencies.

VI. ADVISORY NEIGHBORHOOD COMMISSION

At [Exhibit 33](#) is a letter from ANC 3G in support of the application.

VII. COMMUNITY COMMENTS

At Exhibits 22-28 are letters in support from the community.

Attachment: Location Map

Location Map:

