

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Michael Jurkovic, AICP, Development Review Specialist
MBR
 Maxine Brown-Roberts, Associate Director, Development Review
DATE: May 29, 2026
SUBJECT: BZA Case 21451, conversation to a 4-unit Apartment House in the R-2 zone at 133 Galveston Place, NW

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends **denial** of the following relief:

- U § 201.1, pursuant to X § 1000 – Uses in the R-2 Zone (Multifamily not permitted in the R-3 zone; Four-unit apartment use proposed).
- C § 204.4 to reestablish a non-conforming use after three-years.

II. BACKGROUND

This case comes before the Board via a Zoning Administrator (ZA) Referral provided to the applicant in response to their application for a Certificate of Occupancy for a four-unit Apartment House use at the subject property. Upon receiving notice of the case, OP reached out to the applicant to discuss the Use Variance request. During our meeting with the applicant on March 13, 2026, OP explained that based on the record at that time we could not support the relief requested. Based on this discussions, the owner has supplemented the record extensively. However, there still remains a considerable gap in the property history in order to confirm its use at the time ZR 08-12 was enacted and/or more importantly, what the Applicant has done since purchasing the then presumably occupied two-family flat in 2024.

III. LOCATION AND SITE DESCRIPTION

Address	133 Galveston Place NW
Applicant	Holland & Knight LLP on behalf of O’Rayon McKnight
Legal Description	Square 6239; Lots 89
Ward, ANC	Ward 8; ANC 8D
Zone	R-2
Historic Districts	N/A
Lot Characteristics	Interior Rectangular lot measuring 40.50 ft. x 112.0 ft. with a 16 ft. public alleyway to the rear.
Existing Development	Two-Family Flat
Adjacent Properties	Semi-detached Residential buildings largely single family across the alleyway on Forrester Street and multi-family along the shared frontage of Galveston Place NW.

Surrounding Neighborhood Character	Moderate Density Residential Neighborhood with an Institutional Use (Hospital) to the west.
Proposed Development	Conversion of the long-standing structure into a 4-unit Apartment House. No external work or expansions are proposed.

IV. ZONING REQUIREMENTS and RELIEF REQUESTED

Zone: R-2	Regulation	Existing	Proposed ¹	Relief
Density D § 201	1 principal dwelling and 1 accessory apartment	2 Dwelling Unit Flat	4 Dwelling Unit Apartment House	Use Variance Requested
Lot Width D § 202	30 ft. min	40.5 ft.	No Change	None Requested
Lot Area D § 202	2,500 sq. ft.	4,536 sq. ft.	No Change	None Requested
Height D § 203	40 ft.	<i>Not Provided in the record.</i>	No Change	None Requested
Rear Yard D § 207	20 ft. min.	<i>Not Provided in the record.</i>	No Change	None Requested
Side Yard D § 208	One 8 ft. min. for semi-detached	One 8ft. side yard	No Change	None Requested
Lot Occupancy D § 210	40% max.	<i>Not Provided in the record.</i>	No Change	None Requested
Pervious Surface D § 211	30% min	<i>Not Provided in the record.</i>	No Change	None Requested
Parking C § 701	1 space per 3 units after 4 units.	<i>Not Provided in the record.</i>	No Change	None Requested

V. OFFICE OF PLANNING ANALYSIS

Use Variance relief to Establish a Nonconforming Use – Subtitle U § 201.1

The applicant seeks a variance from Subtitle U § 201.1, which lists the permitted uses in the R-2 zone, in order to establish a four-unit apartment house use. The Board is authorized to grant a use variance pursuant to the 3-part variance test of X § 1000, which is reviewed below.

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

¹ Per the Applicant

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 UNDUE HARDSHIP

i. Extraordinary or Exceptional Situation or Condition Resulting in an Undue Hardship To the Property Owner

a. Extraordinary or Exceptional Condition

The applicant claims the following as a culmination of factors which presents an exceptional condition:

- **Based on the Certificate of Occupancy history for the property, it appears to have been originally improved with an apartment house with four-units from 1947 through 1987;**
- **At some point after 1987, but before the applicant's purchase in 2024, the previous owner reconfigured the property into a two-unit flat without permit and without seeking a new Certificate of Occupancy;**
- The property is currently vacant²;
- Due to the lack of occupancy since sometime after purchase, the property is in need of substantial maintenance to be returned to use. The Applicant states that rehabilitation of the property to a matter-of-right residential use, either single-family or single family with accessory unit, is cost prohibitive;
- If the property is not granted relief, the available matter-of-right residential uses would result in the only single-family dwelling in the immediate area; and
- **The property's current condition is contrary to the intent of ZC 08-12, which rezoned the then R-5-A (RA-1) properties in Ward 8 to the R-2 zone, to prevent the further proliferation of Apartment houses on infill lots in predominately single-family areas.**
- **Galveston Place was and still is almost entirely comprised of Apartment Houses and should not have been rezoned R-2 due to the mismatch between the intent of the ZC action and the actual uses at this property and the immediate area at the time of the Map Amendment.**

In this request, some of these factors shown in bold above could combine to rise to the level of an exceptional condition, but the record would need to be supplemented to provide more detail. However, based on the current case record, OP does not agree with the reminder of the factors presented.

In regard to the current state of the property, the applicant has at no point explained why they chose to not lease an otherwise livable property improved as a two-unit flat but instead has pursued getting a Certificate of Occupancy for a use not permitted as a matter-of-right.³ OP

² Per <https://scout.dcrs.dc.gov/> the 2025 Tax rate was assessed the property as Vacant.

³ The matter is before the Board due to a ZA referral stemming from a Certificate of Occupancy Permit, Exhibit #9.

does find that it was the Applicant's choice to begin their own unapproved demolition work for a conversion to 4-units. Therefore, they cannot present an argument for relief based on cost while ignoring the fact that they could have done a more cost effective job by, maintaining the property's in its two-family flat form at time of purchase.

The applicant incorrectly states that there are no single-family properties in proximity to the project. In fact, there currently exist single-family dwellings directly adjacent across the alleyway to the north as well as along the majority of Forrester Street. This runs contrary to their arguments that ZC 08-12 rezoned these properties in error.

OP would agree there is some discussion to be had if the R-2 zone was in error or at least inappropriate given the then and current form of properties along Galveston Place, with consideration of the stated intent to only prevent further proliferation of Apartment houses on infill lots in predominately single-family areas. Nevertheless, information regarding the subject property's use at the time of ZR 08-12 is crucial but missing from the record.

In summary, it is of OP's opinion that the factors presented by the applicant do not culminate to the level of an Extraordinary or Exceptional Condition.

b. Resulting Undue Hardship

In order to be granted a use variance, an applicant must demonstrate that, because of the exceptional conditions of the property, compliance with the Regulations would result in an undue hardship to the property owner. Although each case stands on its own the applicant cites other such cases before the Board seemingly due to ZC 08-12. The factors that separate this case from others is largely the lack of a binding covenant creating a non-profit element⁴ or a hardship outside of the owner's control resulting in financial difficulties in returning an owner-occupied dwelling to livable condition⁵. Here, the application materials have begun to make an argument, but a substantial number of factors cited by the applicant seem to be a result of their own actions. Therefore, without further evidence or explanation OP cannot conclude at this time there exists Extraordinary or Exceptional Condition(s) which result in an undue hardship to the property owner in this case to make reasonable use of the property.

ii. No Substantial Detriment to the Public Good

Granting the variance to permit the establishment of a four-unit apartment building should not result in detrimental impacts to the public good. The applicant attests that the building may have been originally constructed for four units, so the variance would likely serve to either re-establish a long-lapsed use or re-establishment of a previously intended use. The surrounding neighborhood has a mix of residential types, but small apartment buildings are prevalent, including many properties in proximity which front on Galveston Place. As the applicant has stated there will be no structural expansion of the structure. OP would agree in concept that that a solely internal renovation of the structure to a 4-unit Apartment house is unlikely to be a substantial detriment to the Public Good.

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

⁴ BZA 21229, Exhibit #12 "Affordable Housing Covenant"

⁵ BZA 20997, Exhibit #31, pgs. 1&2, letter from applicant summarizing the intentionally set fire which occurred while they were deployed for FEMA disaster relief efforts.

This property appears to have been developed sometime before 1947 and was previously zoned R-5-A (RA-1 in ZR-16), as was the surrounding area. The then R-5-A originally allowed small apartments subject to conditions, and RA-1 currently allows multi-family buildings by special exception. In 2008, consistent with Comprehensive Plan direction at the time, the property was part of a Ward 8 wide initiative to rezone R-5-A areas to lower density zones including R-1, R-2, R-3, and R-4 (RF-1). Consequently, the property was re-zoned R-2 and as stated by OP at the time, the intent of the map amendment was to limit the proliferation of new apartment buildings in areas predominately developed with single family dwellings.

In this case the long-standing building had a confirmed 4-unit occupancy as of its November 5, 1982, Certificate of Occupancy. Which was re-affirmed in its last certificate of occupancy in June 3, 1987. However, at some point since the last certificate of occupancy the building was altered to a 2-unit flat and was in use in that form when the Applicant purchased the property in 2024. Therefore, OP is unable to confirm whether at the time of the Zoning Commission action in 2008 if the property was two or four units and therefore cannot confirm whether this is truly a new apartment house use or a re-establishment of a lapsed use. For the latter, OP does not find it appropriate to restore a lapsed non-conforming use of potentially over 30 years and would not recommend approval of the C § 204.4 relief even if the record was supplemented so to garner a positive recommendation of the requested C § 201.1 Use Variance. However, a question which could be explored is whether or not a new Zoning Commission action in 2026 is actually the proper channel to rectify an alleged error made in 2008 on the recommendation of OP through ZC 08-12.

Nevertheless, although perhaps the wrong forum, the applicant's arguments regarding the stated intent of ZC 08-12 and their desire to return the property to the 4-unit form it may have been at that time, should not result in a Substantial Impairment to the Intent, Purpose, and Integrity of the Zoning Regulations should the applicant provide documentation and support to the record that the property was in an Apartment House use at the time ZC 08-12 was enacted.

VI. OTHER DISTRICT AGENCIES

At Exhibit #15, DDOT has filed a report stating they have no objection to the requested relief.

VII. ADVISORY NEIGHBORHOOD COMMISSION

ANC 8D has provided to the record a letter detailing their vote in support of the requested relief.

VIII. COMMUNITY COMMENTS

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

Location Map:

