

Testimony for BZA Case 19-13: Proposed Text Amendment to Clarify Regulations Governing Alley Lots

Brian Levy
July 13, 2020

I'm a longtime DC resident (not a developer/lawyer/realtor), who owns an alley lot and would like to build sustainable homes on it, or sell it to a developer to do so. I would like to take a minute today to support the current text amendment, but also propose significant needed revisions. I would like to demonstrate how current DC alley code (including these revisions) continues to make it hard to do the right thing: increase DC's housing stock by building appropriately sized, sustainable housing in alleys that fit the fabric of the community.

I own a 5240 ft2, R-3 alley lot in Ward 5. DCRA validated (with a signed PDRM letter) that with 80% lot occupancy (4192 ft2) one can build up to a 8384 ft2 single family, two floor residence *by right* under current rules. By contrast, the average size of adjacent rowhomes is approximately 2000 ft2, and adjacent lots are roughly 1700 ft2.

A **first** option for this alley lot is to build an appropriately sized, 2500ft2 residence. However, the ROI on this option is negative (-10%). It is important to recognize that civil costs of building on alley lots are often prohibitive. Water/sewer/electric hookups through this alley are an estimated \$124-146K, and costs would be even higher if alley had to be rebricked (vs poured concrete) after water/sewer is installed. This is partly due to the WASA requirement of having a 'closed loop' water supply- a full loop of piping instead of a single pipe connection. Thus alley lot owners are further inclined to build larger buildings to spread the considerable infrastructure costs.

Thus a **second** option could be construction (by right) of a large 6 bedroom 8300ft2 single family residence. While the market may not be strong for this unusual home, given the lot's proximity to 2 colleges, a college co-living arrangement could be envisioned. I am under no illusion either the community or the city planners would prefer this path, but current code allows (and economics favors) this solution. Furthermore, I suspect my situation may not be unique. Please check my numbers, but my rough estimate is in DC there are 180+ alley lots over 3000ft2, roughly half undeveloped, that could potentially build/rebuild oversized 4800 ft2+ structures (at 80% lot occupancy).

A **third** option is to subdivide the lot into 3 lots (1800 ft2, 1800ft2, 1740ft2) which would appear to make good sense. However:

- a) To create a new record lot per C-306.1(a) requires a 24' minimum alleyway — even though *current code* allows by right construction on existing 15' wide alleys, which seems a clear inconsistency. Apart from the fact that extremely few (if any?) 24' wide alleys actually exist in the District, I urge you to simply make subdivision requirements match those for existing record lots.
- b) Per 306.1(c), while *current code* allows building on 450ft2 alley lots, the current minimum lot size for a *new* alley lot is 1800ft2, another apparent inconsistency. To have logical consistency, I urge you to make minimum lot sizes for new alley lots reflect code for existing buildable lots, i.e. 450ft2.
- c) Per Subtitle C Chapter 7, parking requirements for alley lots *significantly* impact the layout and economics for this lot and all alley development. There are many examples throughout the city of existing alley dwellings without parking spaces. In this golden age of new transportation options, I urge OP, OZ and the Commission to drop parking requirements for alley dwellings.
- d) Per 600.1 Matter of Right Uses on Alley Lots (R, RF and RA) and Subtitle U Use Permissions for Alley Lots, no accessory dwellings are allowed on alley lots. This too impacts the economics of developing alley lots, and unnecessarily decreases the potential stock of additional housing. I

strongly recommend code allow accessory dwelling units in R zones, and have alley lots in RF and RA zones meet unit standards for non-alley lots.

To 'do the right thing' and subdivide the lot into 3 appropriately sized lots will require an estimated \$30-40K in legal fees and many months of uncertainty to go through a BZA process, in addition to a lengthy alley naming process (a separate subject), all of which seems onerous when a more attractive buildable option currently exists. Under current conditions, in this case, it is roughly doubly more profitable to build a large single family house than subdivide the lot and build 3 market rate units (19% vs 10%). In the interest of deepening dialogue and transparency, please see attached spreadsheet for the ROI's under 3 development scenarios. I would further note:

- Building on 3 lots/3 residences to passive house/net zero house standards (\$280/ft² vs \$255) further decreases ROI, to 5%.
- Employing IZ for the third (smallest) lot further decreases ROI to unattractive levels.
- *Without* a BZA case and related uncertainty and delays, with traditional construction, the ROI for a 3 lot subdivision is nearing 13%, a figure that some developers would at least consider.
- *Without* a BZA case and related uncertainty and delays, and with passive house construction, ROI is close to 7%, a figure that some progressive developers might consider.

More broadly and importantly to the city as a whole, the Mayor's recent Order on Housing requires District agencies to seek ways to build 36,000 new housing units in DC by 2025. Per 600.1 Matter of Right Uses on Alley Lots (R, RF and RA) and Subtitle U Use Permissions for Alley Lots, alley code could be simply modified to support additional housing in the District. I believe:

- e) Alley code should allow residential alley lot use on all R-zones. Remarkably, the current and proposed rules continue to *exclude* R-1, R-2, R-6, R-7, R-8, R-9, R-10, R-11, R-12, R-14, R-15, R-16, R-19, R-20, R-21 zones from alley development, taking most of DC's 1046 alley lots off the table for residential development. This is simply not in keeping with the clear, urgent housing needs of our city.
- f) Limiting residential use of alley lots to lots exceeding 450ft² is overly restrictive. For well over a decade now microhousing has been a well-established trend and dozens of municipalities have codes to support it. DHCD itself installed two microhomes on a vacant lot as a pilot in 2018. A 200ft² lot with the allowed 100% lot occupancy could support a 400ft² micro-unit, the size of many DC studios. For example, 400ft² is substantially bigger than the microunits available at DC's Wharf apartments. Throughout all Subtitles I believe code must allow alley record lot conversion by right, and allow residential use for all alley lots over 200ft².

The proposed changes *do* properly change minimum alley centerline setbacks. I strongly support the adjustment to alley line setbacks from 12' to 7.5'.

Current alley code (and the subsequent requirement for variances and special exceptions) is pushing alley development farther away from the possibility of appropriate building sizing, from sustainable construction, and from adding urgently needed housing to the District. I urge you to incorporate these suggested revisions to the regulations as soon as possible.

Thank you for your time,

Brian Levy
1866 Ingleside Terrace NW
Washington DC 20009

3 lot subdivision scenario (requires BZA case to get relief from 24' alley width and min lot				1 lot scenario	2500 ft2 residential	8300ft2 residential
	Lot size ft2	Est bld ft2	Notes	Lot ft2	Est bld ft2	Est bld ft2
Lot 1	1800	2322	basement + 2 floors, 4BR; Avg Stronghold rowhouse remodeled with basement ADU is 2000ft2.			
Lot 2	1800	2052				
Lot 3	1740	1350		3 BR		
Total	5340	5724		5240	2500	8300
Construction costs ft2		\$255	Charles Struse est \$250, or \$262/ft2 for high end construction including utility hookups for his alley project; DB ADU project for \$222/ft2; AllenBuilt-\$280/ft2 for passive house		\$255	\$255
Sale price ft2		\$425	Based on Trulia est for Stronghold + Bloomingdale, assume McMillan construction proceeds; https://www.trulia.com/real_estate/Stronghold-Washington/1897/		\$425	\$425
Development Costs						
Land/studio costs		\$322,050	2020 DC property tax valuation		\$322,050	\$322,050
Legal costs		\$47,000	BZA case, alley naming, subdivision plat	by right	\$0	\$0
Civil costs		\$146,000	Sri estimate: water/sewer connection+ electric		\$124,000	\$124,000
Architect/Eng		\$60,000			\$25,000	\$35,000
Construction a+b		\$1,459,620	*Does not include construction loan interest		\$637,500	\$2,116,500
Total		\$2,034,670			\$1,108,550	\$2,597,550
Sale scenario		\$2,432,700	Lot 1+2+3			
add shed value						
		\$2,432,700	Note for 15BR option, more likely rental vs sale		\$1,062,500	\$3,527,500
Net		\$398,030			-\$46,050	\$929,950
Real estate commissions	0.05	\$121,635			\$53,125	\$176,375
DC Transfer tax	0.0145	\$5,771			\$15,406	\$51,149
Taxes	0.22	\$59,537			0	\$204,589
Profit		\$216,858			-\$114,581	\$497,837
ROI		10.66%			-10.34%	19.17%