

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Stephen J. Mordfin, Case Manager
JL Joel Lawson, Associate Director Development Review
DATE: July 13, 2018

SUBJECT: BZA Case 19521A: Request for area variance relief, processed as a Modification of Significance to BZA Case 19521 (from D §1209.4 to permit an accessory apartment on the second floor of a proposed two-story accessory building)

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends **approval** of the following area variance pursuant to Subtitle D § 5201:

- D § 1209.4, Accessory Buildings (one-story maximum permitted; two-stories proposed).

II. HISTORY

- May 22, 2017: Self-certified application filed with the Office of Zoning (OZ) requesting special exception relief to U § 253 to permit an accessory apartment on the second floor of a proposed two-story accessory building to be constructed to a height of 20 feet at the rear of the lot. Relief from Subtitle D § 1209.4 was not requested by the applicant and was not identified through the review process.
- July 7, 2017: OP report filed with OZ recommending approval of the requested special exception to permit an accessory apartment on the second floor of an accessory structure.
- July 19, 2017: Board of Zoning Adjustment (BZA) heard the case and voted to approve the application, issuing its order on July 24, 2017.
- January 3, 2018: The Department of Consumer and Regulatory Affairs (DCRA) issued a permit for the construction of a 20-foot high accessory building within accessory apartment on the second floor.
- January 9, 2018: DCRA canceled the permit, citing Subtitle D § 1209.4, which restricts new accessory buildings within the R-20 to a maximum of one-story and fifteen feet in height.
- May 1, 2018: Application for an area variance, processed as a modification of significance to the previous approval filed with OZ, requesting area variance relief to permit a second floor to an accessory building in the R-20. The building design was amended to comply with the 15-foot height limit and 450 square foot area requirement for accessory buildings in R-20 zone.

III. LOCATION AND SITE DESCRIPTION

Address	3520 S Street, N.W.
Applicant	David Hunter Smith
Legal Description	Square 1303, Lot 29
Ward, ANC	Ward 2, ANC 2E
Zone	R-20
Historic Districts	None
Lot Characteristics	Rectangular lot with rear alley access that slopes downward from the south to the north
Existing Development	Two-story row house with a one-story accessory garage
Adjacent Properties	Row houses with detached garages
Surrounding Neighborhood Character	Moderate density residential
Proposed Development	Construction of new two-story accessory building with an accessory apartment on the second floor and a one-car garage on the first

IV. ZONING REQUIREMENTS and RELIEF REQUESTED

R-20 Zone	Regulation	Existing	Proposed	Relief
Height: Accessory Structure D § 1209.4	15-foot max.	N/A ¹	15 feet	None Required
No. of Stories: Accessory Structure D § 1209.4	one-story max.	N/A	Two-stories	REQUIRED
Building Area: Accessory Structure D § 1209.4	450 square feet max.	N/A	450 square feet	None Required
Accessory Structure: Alley Setback D § 1209.4	5-foot max. ²	N/A	5 feet	None Required
Lot Width D § 1202.1	20-foot min.	18.25 feet	18.35 feet	None Required
Lot Area D § 1202.1	2,000 sq.ft. min.	2,281 sq.ft.	2,281 sq.ft.	None Required
Lot Occupancy D § 1204.1	60% max.	42%	51%	None Required
Parking C § 701.5	one space	one space	one space	None Required

¹ Existing detached garage to be demolished.

² D § 1209.4 permits a maximum accessory building height of fifteen feet and accessory building area of 450 square feet if the accessory structure is set back no more than five feet from the alley.

V. OP ANALYSIS

Variance Relief from Subtitle D § 1209.4, Accessory Buildings

i. Exceptional Situation Resulting in a Practical Difficulty

The subject property is not unique physically in that it is a rectangular lot with rear alley access and developed with a two-story row house as provided by the R-20 zone, not unlike those around it. The exceptional situation resulting in a practical difficulty in this case is that the applicant applied for and received special exception relief from the Board pursuant to Subtitle U § 253.9 to allow an accessory apartment on the second story of a detached accessory building in the R-20 zone, and was issued a permit for the construction of that two-story accessory structure with an apartment on the second floor before DCRA canceled the permit. DCRA cited Subtitle D § 1209.4, which permits accessory structures within the R-20 zone to be no more than one-story in height, a provision from which the applicant did not receive relief.

ii. No Substantial Detriment to the Public Good

The applicant revised the plans to conform to the height and area provisions of D § 1209.4, reducing the height to fifteen feet and the area of the structure to 450 square feet, as required. As a result, the accessory structure would be no taller or larger than what is permitted, while still maintaining the first floor for automobile parking. Therefore, the proposal should not cause substantial detriment to the public good.

iii. No Substantial Harm to the Zoning Regulations

The request to allow an accessory apartment within the proposed accessory building would not increase the maximum density permitted, as the R-20 zone permits the establishment of up to two dwelling units on each lot. It would also not increase the appearance of bulk, as the proposed accessory structure would not exceed the maximum building height and building area permitted for accessory structures. Therefore, this proposal should not result in substantial harm to the zoning regulations.

VI. COMMENTS OF OTHER DISTRICT AGENCIES

No comments were received from other District agencies as of the date of the filing of this report.

VII. COMMUNITY COMMENTS

As of the date of the filing of this report:

- ANC 2E was scheduled to review the application at its regularly scheduled meeting of July 2, 2018;
- Eight letters were submitted to the file in support (Exhibits 28 & 40, 36-39, 42, 44 and 45); and
- Four letters were submitted to the file in opposition (Exhibits 30, 32, 33 & 35).

Attachment: Location Map

