

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Stephen Cochran, Case Manager
JL Joel Lawson, Associate Director Development Review

DATE: February 23, 2018

SUBJECT: BZA # 19692 – 809 49th Street, N.E. – Variance pursuant to Subtitle X, Chapter 10 from the side yard requirements of Subtitle D § 307.1 for an existing one-family dwelling in the R-2 zone at 809 49th Street, NE. (Square 5178, Lot 806)

I. BACKGROUND

The applicant (Reno 809 LLC)-had originally filed for a variance from lot size and width requirements in the R-2 zone. After consultation with the Office of Planning (OP), that request had been amended to seek special exception relief from the side yard requirements for an existing house on the lot.

However, after additional discussions among the applicant, OP and the Office of the Attorney General, it has been determined that the zoning regulations do not provide for special exception relief from this provision in this instance, so variance relief from the side yard requirements for the existing house is appropriate. Although the applicant has not modified the application accordingly, OP has provided analysis against the relevant variance test.

II. RECOMMENDATION

The Office of Planning (OP) recommends the Board **approve** the following variance relief, pursuant to Subtitle X Chapter 10, for a variance from the side yard requirements of Subtitle D § 307.1.

- D 307.1 § 205.4: (Required: Width of at least 8 feet; Proposed: width of 3.9 feet from the existing house north wall to the new side lot line).

LOCATION AND SITE DESCRIPTION

Address	809 49 th Street, N.E.	Legal Description	Square 5178, Lot 806
Zoning	R-2. (Predominantly semi-detached houses on moderately sized lots, with some detached houses).		
Ward, ANC	7, 7C	Historic District	none
Lot Character and Existing Development	12,000 SF, 120-foot wide by 100-foot deep rectangular interior lot on the east side of 49 th Street, NE. It is improved with a two-story single family detached house. There is a rear alley and parking space.		

Adjacent Properties	The three 2,000 square foot lots to the north have common ownership, and are developed with semi-detached dwellings. The 4,000 square-foot lot to the south contains one detached single-family house with one approximately 5-foot side yard and one approximately 16-foot side yard.
Neighborhood Character	Single family detached houses predominate, on lots averaging between 3500 and 5000 square feet and with a variety of side yard widths. However, a three-story apartment building is located at the corner of 49 th and Hayes Streets --3 lots to the south of the applicant's lot. A large, modern building containing the Metropolitan Police Department's Youth and Family Services Division is located across the alley behind the subject property. The three and four-story Huntwood Apartments complex is to the immediate northeast.

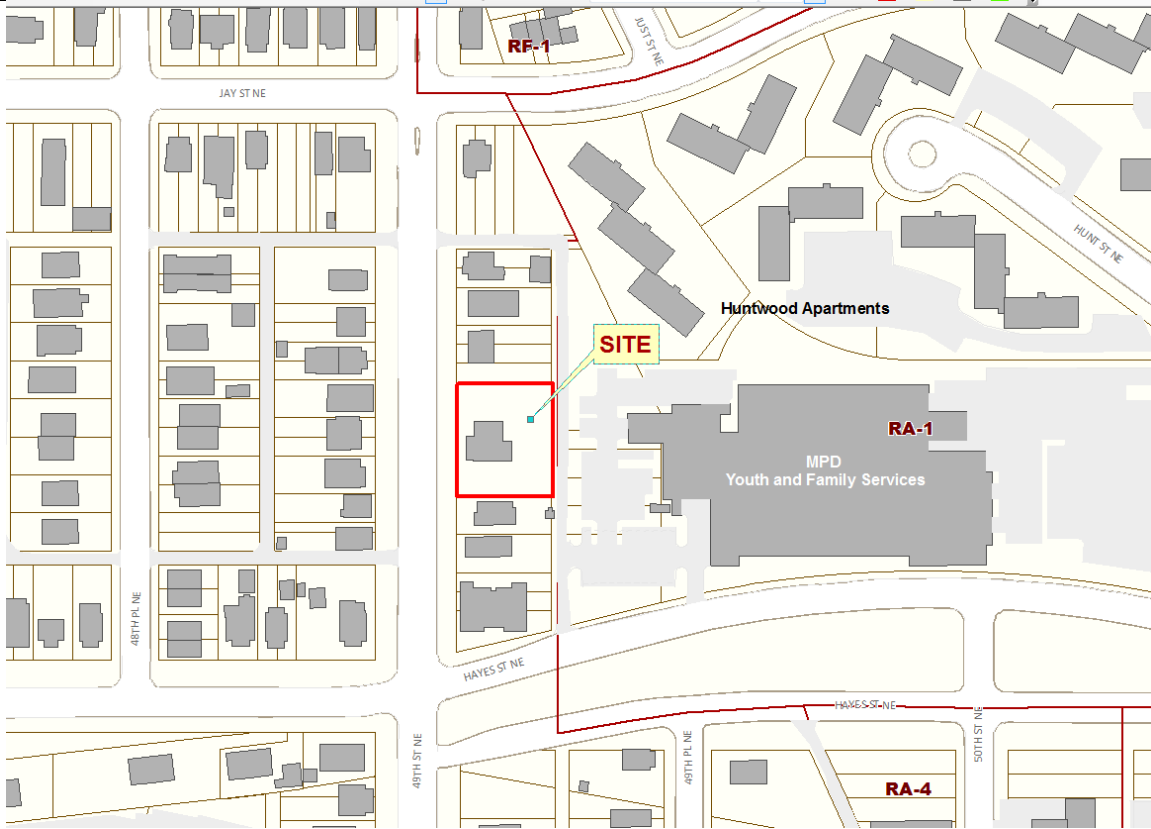


Figure 1. Site Location

III. PROJECT DESCRIPTION

The applicant owns a 12,000 square-foot lot with an existing detached single-family house located south of the center of the lot's frontage on 49th Street. The exceptionally large lot is over two times larger than the next-largest single-family lot in the neighborhood, and three times the lot size required in this zone for a detached house. In the original filing for this case the applicant had sought to subdivide the lot into two conforming lots and one non-conforming lot. The applicant had planned to retain the existing house and to construct two additional houses that he erroneously thought would be considered semi-detached structures.

After discussions with the Office of Planning (OP), it was determined that semi-detached houses could not be constructed on either of the proposed new lots because there would be no building walls to which a new house could be attached. However, with the requested 4.1 feet of relief from the 8-foot width requirement for the side yard on the north side of the existing house, the applicant would be able to subdivide the 12,000 square-foot lot into one conforming 80-foot wide 8,000 square foot lot containing the existing house, and one conforming 40-foot wide 4,000 square foot lot for a future detached house. OP incorrectly advised the applicant that such relief would require a special exception. After consultation with the Office of the Attorney General, OP later informed the applicant that such side yard relief would require a variance, which is the category of relief under which this case had been originally advertised when the applicant was seeking permission to create a non-conforming subdivision of the lot.

An illustration of the side yard that would be created with the requested relief, as well as the proposed future subdivision and development is contained in Exhibit 35, which is reproduced below.

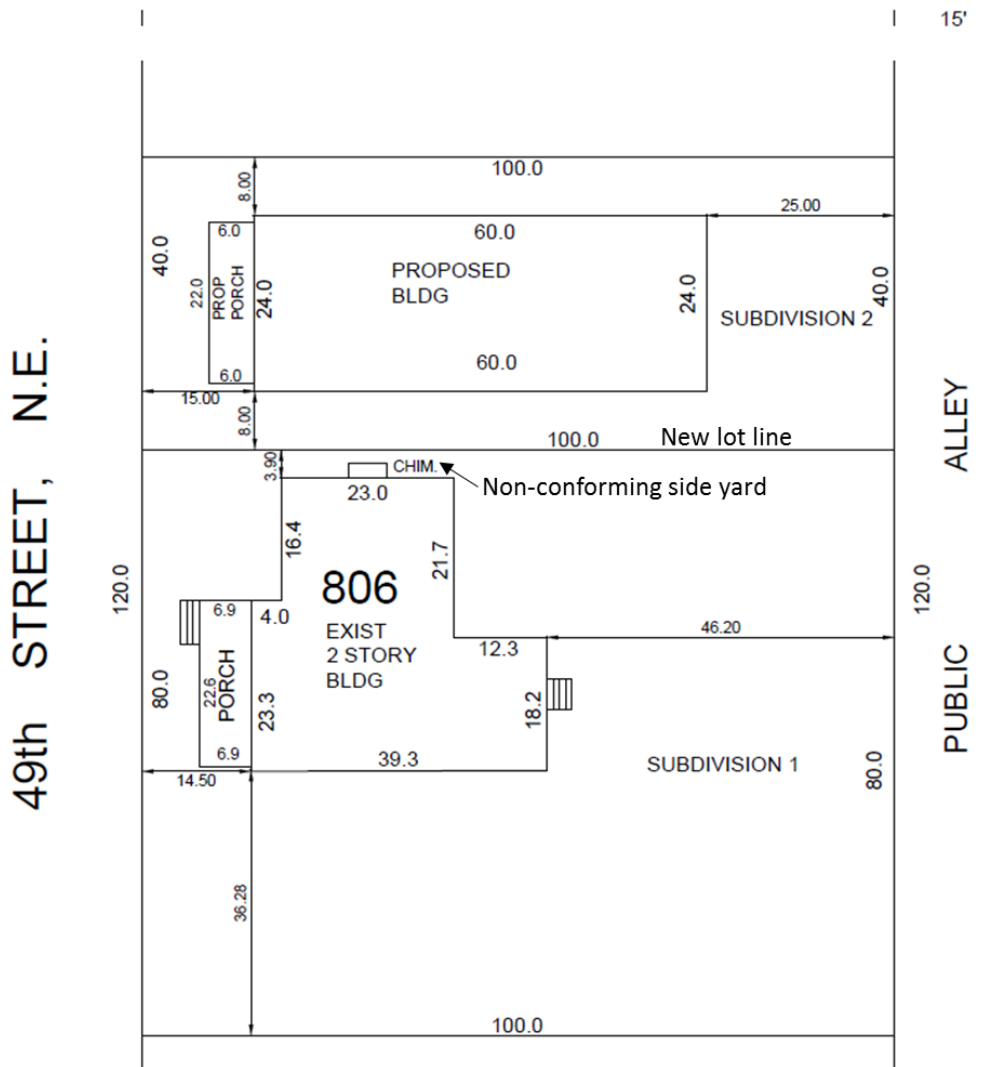


Figure 2. Existing Lot and House with Requested Side Yard Reduction, and Proposed Future Subdivision and Additional Detached House

IV. ZONING REQUIREMENTS AND ANALYSIS

The table below addresses the special exception request for a side yard reduction.

Table 1. Zoning Data

Item	Regulation	Existing	Required / Permitted	Proposed	Relief
Lot Area & Width	D-302.1	12,000 sf	<i>For detached house:</i>	Same	Conforming
		120 ft.	4000 sf min. 40 ft. min.	Same	
Height	D-303.1	~ 23 ft. 2 stories	40 ft. max. 3 stories max.	Same. Same	Conforming
Lot Occ.	D-304.1	Not provided but < 40%	40 % max.	Same	Conforming
Front Setback	D-305.1	in line with row	In line with row	Same	Conforming
Rear Yard	D-306.1	Not provided but > 25 ft.	25 ft.	Same.	Conforming
Side Yard	<i>D-307.5</i>	<i>43.9 ft., north</i> <i>36.2 ft., south</i>	<i>≥ 8 ft.</i> <i>≥ 8 ft.</i>	<i>3.1 ft., north</i> Same, south	<i>Variance requested</i> Conforming
Pervious Surface	D 308.1	Information not provided	50%	Information not provided	tbd
Parking	C-701.5	1	1/principal house with alley	Same	Conforming

Subtitle X, Chapter 10 Section 1002.1:

By reason of exception conditions of a specific piece of property the strict application of the regulation would result in peculiar or exceptional practical difficulties for the owners;

The applicant’s 12,000 square foot property is close to three times as large as the typical single-family residential lot in the area. The applicant had been informed by Staff that, with subdivision relief, it would be possible to retain the existing detached house, subdivide the lot into two conforming and one non-conforming lot and construct a semi-detached house on each of the new lots. However, under the 2016 zoning regulations it would not be possible to construct a semi-detached house on either of the new lots. It would also not be possible to create just one new lot conforming to the lot dimension requirements without either receiving side yard relief for the existing house, or demolishing a portion of that house to enable a conforming side yard. As the applicant rightly wishes to retain the existing house, either of these possibilities create a practical difficulty.

Relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan.

The requested side yard relief should have no detrimental impact on neighboring properties or on the zone plan. The reduced side yard would be in the middle of the existing lot. The relief would permit the creation of one additional conforming lot where, if the existing house were demolished, the creation of three lots would be possible. At 3.9 feet, the reduced side yard for the existing detached house would not be out of character with the pattern of nearby side yards. A future detached house on the new subdivided lot to the north, would be expected to fully conform to all zoning requirements, including side yard regulations of 8 feet minimum, resulting in at least 11.9 feet between the windowless north side of the existing house and the south wall of the future house. The resulting side yards would be consistent with the R-2 zone's objectives for the maintenance and creation of single-family detached and semi-detached homes.

V. DISTRICT AGENCY COMMENTS

The District Department of Transportation has no objection to approval of the variance (Exhibit 36). There were no other District agency comments on file at the time OP completed its report.

VI. COMMUNITY COMMENTS

The applicant had presented a summary of its revised application to ANC 7C prior to filing the revision to the application. The ANC was scheduled to review the complete application prior to the BZA hearing, but after OP had filed its report.

There were no filings in favor of, or opposing, either the original or revised application at the time OP completed this report.