

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Anne Fothergill, Case Manager
JL Joel Lawson, Associate Director Development Review
DATE: March 30, 2018
SUBJECT: BZA Case 19724 - request for Special Exception to construct exterior egress stairs at 5409 Georgia Avenue, NW.

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends **approval** of the following Special Exception pursuant to Subtitle G § 1201 and Subtitle X Chapter 9:

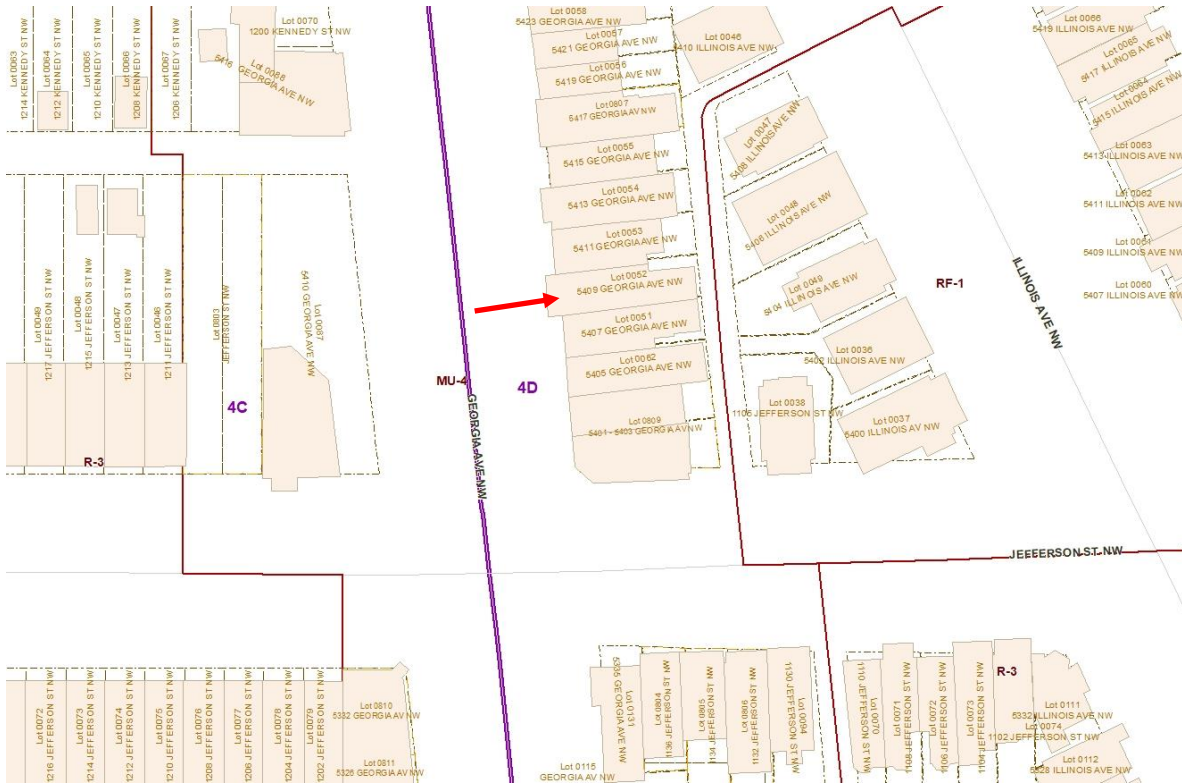
- Subtitle G § 405.2 Rear Yard (15 feet minimum required; 6 feet proposed)

OP confirmed with the Zoning Administrator that the Applicant does not need relief from the Floor Area Ratio requirement as noted in the DCRA referral memo and requested in the application.

It is OP’s understanding that relief to allow expansion of the restaurant to include rooftop tables will also require relief pursuant to Subtitle C Section 1500.3(c). In concept, OP is not opposed to this expansion, but such relief was not requested so OP has not provided analysis. OP has advised the Applicant that they should confirm with DCRA whether they need to request Special Exception relief from Subtitle C Section 1500.3(c) for restaurant use on the roof, and potentially also from Section 1502 for penthouse setbacks.

II. LOCATION AND SITE DESCRIPTION

Address:	5409 Georgia Avenue, N.W.
Legal Description:	Square 2996 Lot 0052
Ward / ANC:	Ward 4/ ANC 4D
Zone:	MU-4
Historic District:	N/A
Lot Characteristics:	1,300 SF rectangular lot
Existing Development:	Attached two-story commercial building on Georgia Avenue with a 15’ wide public alley at the rear
Adjacent Properties:	The adjacent properties are two-story commercial or mixed-use buildings
Surrounding Neighborhood Character:	The surrounding neighborhood is generally commercial along Georgia Avenue and residential across the alley to the east of the subject property



III. PROJECT DESCRIPTION IN BRIEF

The Applicant proposes to construct a rear exterior egress stair and dumbwaiter shaft leading to an existing restaurant roof deck. The stairs would be located in an open court along the north side of the building and connecting to a public alley behind the building.

IV. ZONING REQUIREMENTS and RELIEF REQUESTED

MU-4 Zone (Subtitle G)	Regulation	Existing	Proposed ¹	Relief
Height	50 feet	25.7 feet	No change	None requested
Lot Width	N/A	20 feet	No change	None required
Lot Area	N/A	1,300 SF	No change	None required
Rear Yard	15 feet min.	Not noted	6 feet	Relief requested
Lot Occupancy	100% max.	95.5%	No change	None required
Floor Area Ratio	1.5	Not noted	1.8 ²	None required

¹ Information provided by the Applicant.

² This FAR calculation from the applicant may include the proposed stairs; OP confirmed with the Zoning Administrator that the proposal would not increase the FAR and does not require relief

V. OP ANALYSIS

With regards to the request for relief from rear yard setback only, Subtitle G § 1201.1 states that:

The Board of Zoning Adjustment may grant relief to the rear yard requirements of this subtitle as a special exception pursuant to Subtitle X, provided:

- (a) No apartment window shall be located within forty feet (40 ft.) directly in front of another building;*
- (b) No office window shall be located within thirty feet (30 ft.) directly in front of another office window, nor eighteen feet (18 ft.) in front of a blank wall;*
- (c) In buildings that are not parallel to the adjacent buildings, the angle of sight lines and the distance of penetration of sight lines into habitable rooms shall be considered in determining distances between windows and appropriate yards;*
- (d) Provision shall be included for service functions, including parking and loading access and adequate loading areas; and*
- (e) Upon receiving an application to waive rear yard requirements in the subject zone, the Board of Zoning Adjustment shall submit the application to the Office of Planning for coordination, review, report, and impact assessment, along with reviews in writing from all relevant District of Columbia departments and agencies, including the Department of Transportation, the District of Columbia Housing Authority and, if a historic district or historic landmark is involved, the Historic Preservation Office.*

The above criteria of Section 1201.1 of Subtitle G for rear yard relief in the MU-4 zone are not generally applicable to this application, as the building is neither a residential nor an office building. However, the rear wall of the subject building is approximately 30 feet from the closest residential building, located to the east across the alley. The existing building does not provide on-site loading or parking, which is generally typical for this row of retail buildings. DDOT has provided comments at Exhibit 32; the site is not located within a historic district.

Subtitle X § 901.2 The Board of Zoning Adjustment is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2), to grant special exceptions, as provided in this title, where, in the judgment of the Board of Zoning Adjustment, the special exceptions:

- (a) Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;*

The relief would facilitate the more efficient and code compliant use of the space by a permitted use in the zone.

- (b) Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and*

The exterior stairs would be constructed in the open court along the north side of the building and extend along the side wall of the building from the existing roof deck to the alley at the rear of the subject commercial property. As such, the proposed stairs should not have an adverse impact on the light and air available to adjacent properties nor should they adversely affect the use of neighboring properties.

- (c) Will meet such special conditions as may be specified in this title.*

OP does not propose any special conditions. However, OP advised the Applicant that they should consult with DCRA to determine whether they also need to apply for a retroactive Special Exception for penthouse setbacks or to allow the restaurant use on the roof (Subtitle C Sections 1502 and 1500.3(c)).

The above analysis is for the requested rear yard relief only. The applicant has not requested, so OP has not analyzed, potentially required relief from the rooftop use and setback provisions.

VI. COMMENTS OF OTHER DISTRICT AGENCIES

The DDOT report is filed at Exhibit 32, noting no objection to the proposal.

VII. COMMUNITY COMMENTS

ANC 4D submitted a resolution in support at Exhibit 33. A letter in support has also been submitted by Councilmember Brandon Todd (Exhibit 31), and the applicant submitted a number of form letters in support from area residents (Exhibit 34).