

**MEMORANDUM**

**TO:** District of Columbia Board of Zoning Adjustment

**FROM:** Matt Jesick, Case Manager  
*JL* Joel Lawson, Associate Director for Development Review

**DATE:** March 30, 2018

**SUBJECT:** BZA #19729 – 2901 North Capitol Street, NE – Request for post-construction relief to allow an addition to an existing row dwelling

**I. RECOMMENDATION**

The Office of Planning (OP) recommends **approval** of the following requested variance and special exception relief, pursuant to Subtitle X §§ 1000 and 900, and Subtitle D § 5201:

- D § 304 – Lot Occupancy (60% permitted as a matter of right; 70% permitted by special exception; 79.5% pre-construction\*; 88.4% existing post-construction) *variance*
- D § 306 – Rear Yard (20’ required; 22.8’ pre-construction\*; 14’ existing post-construction) *special exception*
- D § 308 – Pervious Surface (20% required; 8% pre-construction\*; 0% post-construction) *special exception*
- C § 202.2 – Nonconforming Structure (Expansions to nonconforming structures may not create a new nonconformity nor increase an existing nonconformity; Creating a new nonconforming rear yard and increasing the nonconforming lot occupancy); *special exception*

\* Estimated by OP.

OP’s recommendation of approval for the zoning relief is not an indication that the public space features associated with the property are in conformance with the public space regulations. Evaluation of the public space is a separate review conducted by DDOT, DCRA and OP.

Page 2 of the applicant’s supplemental statement, Exhibit 41, seems to add “minimum lot dimensions” (D § 302.1) as an area of relief to those originally applied for. Pursuant to Subtitle C § 301.1, relief to lot width and lot area are not required for an existing record lot.

**II. LOCATION AND SITE DESCRIPTION**

Applicant	Mr. Tracey Turner, Owner
Address	2901 North Capitol Street, NE
Legal Description	Square 3500, Lot 33
Ward / ANC	5, 5E

Zone	R-3, Moderate Density Single Family Rowhouses
Historic District or Resource	None
Lot Characteristics and Existing Development	Almost triangular-shaped rowhouse lot at the corner of North Capitol and Girard Streets. Width at front is 19.96’ and width at rear alley is 5.66’, which, by averaging pursuant to the definition “Lot Width” (B § 100.2), gives a zoning width of 12.8’; Girard Street slopes up from North Capitol; 15’ alley in rear; 2-story with cellar rowhouse on the property, existing prior to the most recent construction.
Adjacent Properties	Rowhouse to the north; Rowhouse to the east across the alley; Rowhouse to the south across Girard.
Surrounding Neighborhood Character	Immediate neighborhood is exclusively rowhouses; Zoning Commission has approved a mixed use development across North Capitol Street; The VA Hospital is to the northwest. Please see Vicinity Map in Section VII.
Proposed Development	The property was renovated and expanded 8’10” to the rear, according to the submitted plans; The project also included decks at the rear and side of the property; The owner now seeks relief for the expansion.

### III. ZONING REQUIREMENTS AND RELIEF REQUESTED

The development requires relief as noted in the table below.

R-3 Zone	Regulation	Pre-Construction	Post-Construction	Relief
Lot Width D § 302	20’ (for attached building <sup>1</sup> )	12.8’ (avg. of front and rear)	No change	Existing Non-Conforming
Lot Depth	n/a	85’ – north side 86.2’ – south side	No change	Conforming
Lot Area D § 302	2,000 sf (for attached building)	1,089 sf	No change	Existing Non-Conforming
Height D § 303	40’ 3 Stories	35’	No change	Conforming
<b>Lot Occupancy D § 304</b>	<b>60%</b> <b>(for attached building)</b> <b>70% by special except.</b>	<b>79.5%*</b> <b>865.25 sf*</b>	<b>88.4%</b> <b>962.41 sf</b>	<b>Requested</b>
Front Setback D § 305	Within the range of existing homes on the block	In line with other homes	No Change	Conforming

<sup>1</sup> Under the 1958 Regulations, the structure on the subject lot would have been defined as a “Dwelling, Row”. Presently, the 2016 Regulations define the structure as a “Building, Semi-Detached”, but Zoning Commission case #17-23 proposes to amend the definitions such that the lot-line to lot-line building would be defined as “Building, Attached”.

R-3 Zone	Regulation	Pre-Construction	Post-Construction	Relief
Rear Yard D § 306	20'	22.8'*	14'	Requested
Pervious Surface D § 308	20% pervious	8%*	0%	Requested

\* Estimated by OP.

#### IV. ANALYSIS

##### SUBTITLE X § 1000 VARIANCE CRITERIA - LOT OCCUPANCY

(a) *Exceptional Situation Resulting in a Practical Difficulty*

The lot exhibits exceptional conditions in that it has a nearly triangular shape and has a small overall lot area. It is the second smallest lot in the square, and over 200 square feet smaller than the next smallest lot. The lot area is reduced because of the shape of the lot, which is nearly 20 feet wide at the front, but less than six feet wide at the rear. These factors lead to a practical difficulty, in that the previous footprint of the house was already well over the permitted lot occupancy.

(b) *No Substantial Detriment to the Public Good*

Relief to the lot occupancy requirement should not result in a detriment to the public good. In this case, the change in lot occupancy from the previous condition to the post-construction condition is estimated by OP to be about 9%, or around 100 square feet. That amount of floor area and building volume should not result in major impacts to the surrounding community. Privacy should not be impacted; No windows were constructed on the north side of the building, facing the adjacent neighbor, and the new decks should have no greater impact on privacy than the previous decks that existed on the house.

(c) *No Substantial Harm to the Zoning Regulations*

The Regulations intend to generally govern the form of buildings in any given zone. In this instance, because of the small size of the lot, the form of the building is actually substantially similar to others on the block and in the neighborhood.

##### SUBTITLE D § 5201 ADDITION TO A BUILDING OR ACCESSORY STRUCTURE - REAR YARD / PERVIOUS SURFACE / ADDITIONS TO NONCONFORMING STRUCTURES

5201.1 *The Board of Zoning Adjustment may approve as a special exception in the RF zones relief from the following development standards of this subtitle, subject to the*

*provisions of this section and the general special exception criteria at Subtitle X, Chapter 9:*

- (a) Lot occupancy;*
- (b) Yards;*
- (c) Courts;*
- (d) Minimum lot dimensions;*
- (e) Pervious surface; and*
- (f) The limitations on enlargements or additions to nonconforming structures as set forth in Subtitle C § 202.2.*

The applicant seeks special exceptions for rear yard, pervious surface and an addition to a nonconforming structure.

*5201.2 Special exception relief under this section is applicable only to the following:*

- (a) An addition to a residential building;*
- (b) A new or enlarged accessory structure that is accessory to such a building; or*
- (c) A reduction in the minimum setback requirements of an alley lot.*

The application is for an addition to a residential building.

*5201.3 An applicant for special exception under this section shall demonstrate that the proposed addition or accessory structure shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:*

- (a) The light and air available to neighboring properties shall not be unduly affected;*

Light and air does not appear to be unduly affected by the addition, which reduces the rear yard depth by 8'10". The new building volume does not appear to significantly change the amount of shadow, nor impact the amount of air available to neighboring properties. There is some amount of additional shadow on the property to the north, but much of the new evening shadow would seem to fall on the alley.

- (b) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;*

Privacy should not be impacted; No windows were constructed on the north side of the building, facing the adjacent neighbor, and the new decks should have no greater impact on privacy than the previous decks that existed on the house.

- (c) *The addition or accessory structure, together with the original building, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale, and pattern of houses along the subject street frontage;*

The addition seems to project farther to the rear than the other houses on the block, but that deviation does not substantially intrude upon the character of the alley frontage, nor the Girard Street frontage. While the parking pad appears to now be newly paved, based on historic photos it seems that this area was always used for parking.

OP notes that because, from a zoning perspective, the project may not substantially visually intrude upon the character of the neighborhood, that does not mean that the portions of the project in public space may not comply with regulations for public space or building projections. This project has projections that exceed what was approved as part of a public space permit issued in June 2017, and has a vehicle parking space in public space that was also not part of his public space permit. Those items will be evaluated in a public space process that is separate from zoning.

- (d) *In demonstrating compliance with paragraphs (a), (b), and (c) of this subsection, the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the proposed addition or accessory structure to adjacent buildings and views from public ways; and*

The application includes plans, elevations and photographs to represent the proposed addition.

- (e) *The Board of Zoning Adjustment may approve lot occupancy of all new and existing structures on the lot up to a maximum of seventy percent (70%).*

The application proposes a lot occupancy of 88.4%, for which the applicant has requested a variance.

5201.4 *The Board of Zoning Adjustment may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent and nearby properties.*

OP recommends no special treatments.

5201.5 *This section may not be used to permit the introduction or expansion of a nonconforming use as a special exception.*

The application materials seem to state that the property is a single family dwelling. The architectural

plans, however, seem to show a second full kitchen in the cellar level. Because this is the R-3 zone and flats are not permitted, it will be incumbent upon the applicant to demonstrate to DCRA that there is only one unit on the property, or that the second unit is a legal accessory apartment.

5201.6 *This section shall not be used to permit the introduction or expansion of nonconforming height or number of stories as a special exception.*

The building would be conforming for number of stories and height.

## V. COMMENTS OF OTHER DISTRICT AGENCIES

As of this writing OP has not received comments from other District agencies on this project, but does anticipate that DDOT will submit comments under separate cover.

## VI. COMMUNITY COMMENTS

The ANC submitted a report in support of the application at Exhibits 35 and 36. The record also includes a number of letters in support from neighbors, including the adjacent neighbor to the north and the neighbor across the alley, and at least one letter in opposition (Exhibit 42).

## VII. VICINITY MAP

