



## MEMORANDUM

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

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

**DATE:** August 31, 2018

**SUBJECT:** BZA #19796 – 3324 Sherman Avenue, NW – Special Exception to permit the conversion of a flat to a three-unit apartment building

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### **I. RECOMMENDATION**

The applicant is proposing the conversion of a flat to a three-unit apartment building, as well as additions to the existing building. As part of the required special exception request, OP would, based on the information in the record to date, recommend **denial** of the following waiver. As of this writing, the waiver has not been requested, but OP has discussed the need for the waiver with the applicant:

- U § 320.2(e), pursuant to U § 320.2(l) (Addition may not extend more than 10' past the rear wall of any adjacent property, 18'-½" past the rear wall to the north proposed).

Although OP is not in concept opposed to the special exception proposal to convert the flat to three units, since the property meets the lot size requirement for relief by special exception, until resolution of the issue regarding the waiver for the rear addition, which would facilitate the conversion, the Office of Planning (OP) cannot yet recommend approval of the following requested special exception:

- U § 320.2, pursuant to Subtitle X, Chapter 9 (Existing flat; Conversion to an apartment permitted by special exception; Three units proposed).

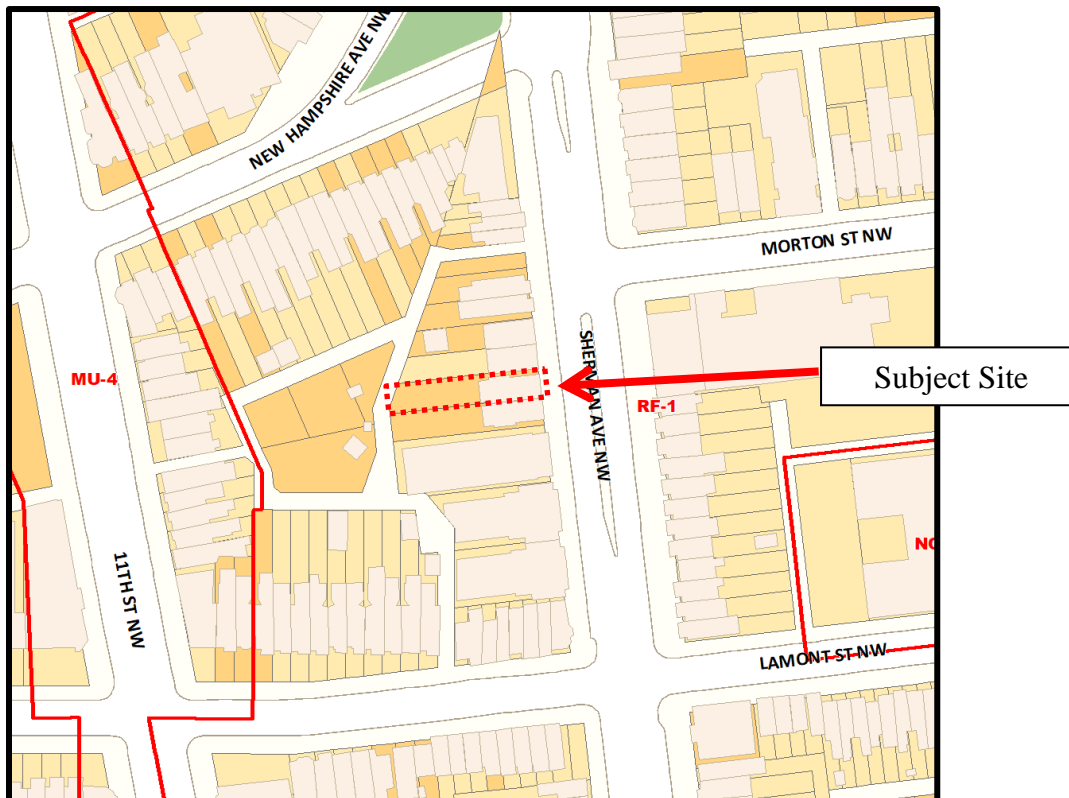
As of this writing the record does not contain sufficient information to be able to evaluate the impacts on adjacent properties, most especially the property to the north. OP recommended that the applicant prepare a shadow study, and also recommended providing more detail on the site plan regarding, for instance, the location of decks and windows on adjacent properties.

The following relief was requested in the revised self-certification at Exhibit 35, and OP recommends **approval** of the relief:

- E § 307.4, pursuant to E § 5201 (Existing non-conforming 3' side yard; Non-conforming side yards may not be reduced; 0' side yard proposed).

## II. LOCATION AND SITE DESCRIPTION

Applicant	3324 Sherman Ave., NW, LLC
Address	3324 Sherman Avenue, NW
Legal Description	Square 2841, Lot 0864
Zoning	RF-1 (Attached Single Family and Flat; Apts. permitted by spec. ex.)
Ward and ANC	1, 1A
Historic District or Resource	None
Lot Characteristics and Existing Development	Roughly trapezoidal rowhouse lot with the rear lot line along an angled alley; 25' wide, 123' deep on the north, 133' deep on the south; 15' alley to the rear; Existing two story flat.
Adjacent Properties and Neighborhood Character	The subject site is the northern half of a matched pair of buildings; The building to the south is a mirror image of the subject site. A 3' side yard separates the subject site from a two-story residential building to the north. The surrounding neighborhood is a mix of row buildings, semi-detached buildings and apartments.
Project Description	Expand an existing flat and convert it to three apartment units. The project would increase the height of the building to three stories, with the third story set back from the street. The addition would increase the depth of the building by 10 feet.



### III. ZONING REQUIREMENTS AND RELIEF REQUESTED

RF-1 Zone	Regulation	Existing	Proposed	Relief
Lot Width E § 201	18'	25'	No change	None required
Lot Depth	n/a	~128'*	No change	None required
Lot Area E § 201	1,800 sf	3,283.2 sf	No change	None required
Height E § 303	35' – matter-of-right 40' – special exception	Not provided	35'	None required
Lot Occupancy E § 304	60%	33% 1,068.8 sf	46% 1,604.0 sf	None required
Rear Yard E § 305	20'	~72'*	~62'*	None required
Side Yard E § 307.4	Existing non-conforming side yard may not be reduced	3'	0'	Requested
Conversion to Apt. U § 320.2	3 or more units by special ex., w/ 900 sf lot area / unit	2 units	3 units (1,094 sf / unit)	Requested
Rear Yard / Depth of Rear Addition U § 320.2(e)	Addition may not extend more than 10' past rear wall of adjacent house	Not provided for house to the north	18'-1/2" past the house to the north	Waiver not requested, but required

\* Calculated by OP

### IV. ANALYSIS

#### Apartment Conversion

Subtitle U § 320.2 allows, as a special exception, the conversion of a structure to an apartment building, subject to the following criteria.

*320.2 Conversion of an existing residential building existing prior to May 12, 1958, to an apartment house shall be permitted as a special exception in an RF-1, RF-2, or RF-3 zone if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the following conditions:*

- (a) The maximum height of the residential building and any additions thereto shall not exceed thirty-five feet (35 ft.), except that the Board of Zoning Adjustment may grant a special exception from this limit to a maximum height of forty feet (40 ft.) provided the additional five feet (5 ft.) is consistent with Subtitle U §§ 320.2(f) through 320.2(i);*

The existing height of the building was not provided by the applicant, but the proposed height would be 35'.

- (b) *The fourth (4th) dwelling unit and every additional even number dwelling unit thereafter shall be subject to the requirements of Subtitle C, Chapter 10, Inclusionary Zoning, including the set aside requirement set forth at Subtitle C § 1003.6;*

The proposal would result in three units on the property.

- (c) *There must be an existing residential building on the property at the time of filing an application for a building permit;*

There is an existing residential building on the property.

- (d) *There shall be a minimum of nine hundred square feet (900 sq. ft.) of land area per dwelling unit;*

The lot area is large enough to accommodate three units by special exception.

- (e) *An addition shall not extend further than ten feet (10 ft.) past the furthest rear wall of any principal residential building on an adjacent property;*

The proposed extension of the existing building would be 18' -1/2" beyond the building to the north. Please refer to Sheet Z.100 of Exhibit 32. As of this writing the applicant has not requested a waiver from this section, as permitted by subsection (1). Should the waiver be requested, OP would, based on the information in the record to date, recommend denial of the waiver. The record does not contain sufficient information to be able to evaluate the impacts on adjacent properties, most especially the property to the north. OP recommended that the applicant prepare a shadow study, and also recommended providing more detail on the site plan regarding, for instance, the location of decks and windows on adjacent properties.

- (f) *Any addition, including a roof structure or penthouse, shall not block or impede the functioning of a chimney or other external vent compliant with any District of Columbia municipal code on an adjacent property. A chimney or other external vent must be existing and operative at the date of the building permit application for the addition;*

At page 2 of Exhibit 4 the applicant states that they would extend the chimney for 3322 Sherman Avenue. The applicant should submit evidence that the neighbor has agreed to permit this work on their property.

- (g) *Any addition, including a roof structure or penthouse, shall not significantly interfere with the operation of an existing solar energy system of at least 2kW on an adjacent property unless agreed to by the owner of the adjacent solar energy system....*

OP has found no evidence of an existing or permitted solar energy system on adjacent properties.

- (h) *A roof top architectural element original to the house such as cornices, porch roofs, a turret, tower, or dormers shall not be removed or significantly altered, including shifting its location, changing its shape or increasing its height, elevation, or size. For interior lots, not including through lots, the roof top architectural elements shall not include identified roof top architectural elements facing the structure's rear lot line. For all other lots, the roof top architectural elements shall include identified rooftop architectural elements on all sides of the structure;*

The proposed design would maintain existing architectural details such as the cornice line and medallions.

- (i) *Any addition shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:*  
(1) *The light and air available to neighboring properties shall not be unduly affected;*

As of this writing the record does not contain sufficient information to be able to evaluate the impacts on adjacent properties, most especially the property to the north. OP recommended that the applicant prepare a shadow study, and also recommended providing more detail on the site plan regarding, for instance, the location of decks and windows on adjacent properties.

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

Privacy should not be unduly impacted. The building would not have windows facing directly onto the adjacent rear yards. The proposed rear balconies would permit some visibility onto the adjacent property, but not to a higher degree than a matter-of-right project on the subject site would allow.

- (3) *The conversion and any associated additions, 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 or alley;*

The subject street has a variety of building sizes and architectural styles. The proposed design, while modern, would not be out of scale with development on the block; the building would be within the matter-of-right height limit. Similarly, on the alley side, the proposed extension of the building would not visually intrude upon the varied character of the buildings in the vicinity, and would be significantly smaller than the larger apartment buildings on the block.

- (j) *In demonstrating compliance with Subtitle U § 320.2(i) the applicant shall use graphical representations such as plans, photographs, or elevation and section*

*drawings sufficient to represent the relationship of the conversion and any associated addition to adjacent buildings and views from public ways;*

As of this writing the record does not contain sufficient information to be able to evaluate the impacts on adjacent properties, most especially the property to the north. OP recommended that the applicant prepare a shadow study, and also recommended providing more detail on the site plan regarding, for instance, the location of decks and windows on adjacent properties.

- (k) *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 or nearby properties, or to maintain the general character of a block;*

OP recommends no special treatments or conditions.

- (l) *The Board of Zoning Adjustment may modify or waive not more than three (3) of the requirements specified in Subtitle U §§ 320.2(e) through § 320.2(h) provided, that any modification or waiver granted pursuant to this section shall not be in conflict with Subtitle U § 320.2(i); and*

The proposed design would require a waiver from the “10-foot rule” of § 320.2(e). As of this writing the applicant has not requested this waiver, and based on the information in the record to date, OP would recommend denial of the request should it be made.

- (m) *An apartment house in an RF-1, RF-2 or RF-3 zone, converted from a residential building prior to June 26, 2015, or converted pursuant to Subtitle A §§ 301.9, 301.10, or 301.11 shall be considered a conforming use and structure, but shall not be permitted to expand either structurally or through increasing the number of units, unless approved by the Board of Zoning Adjustment pursuant to Subtitle X, Chapter 9, and this section.*

Not applicable.

### **Side Yard Special Exception**

In order to fill in the existing non-conforming side yard, the applicant would require relief from E § 307.4. As of this writing, the relief has not been requested, but the Board is authorized to grant the special exception relief pursuant to E § 5201. The criteria of that section are addressed below.

### **Subtitle E Chapter 5201 ADDITION TO A BUILDING OR ACCESSORY STRUCTURE**

*5201.1 The Board of Zoning Adjustment may approve as a special exception in the R 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 application would require relief from the provision that prohibits the reduction in size of non-conforming side yards.

*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 applicant proposes an addition to an existing 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;*

Granting side yard relief should, of itself, not result in undue impacts to the light and air available to the adjacent property to the north. In the current condition the buildings are very closely spaced, and reducing the side yard should create only marginal additional impacts.

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

Reducing the side yard should not have a detrimental impact on privacy for the adjacent property. The design proposes no windows on the northern side of the building, and while the project would have rear decks, their impact on privacy should not be significantly greater than with decks constructed with matter-of-right side yards.

- (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 subject street has a variety of building sizes and architectural styles. The proposed design, while modern, would not be out of scale with development on the block, and reducing the side yard to zero would be in keeping with the character of the RF-1 zone and other row buildings in the immediate vicinity. Similarly, on the alley side, the proposed reduction in side yard would not visually intrude upon the varied character of the buildings in the vicinity.

*(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 and renderings that demonstrate the reduction in side yard, as well as floorplans showing the locations of windows and decks.

*(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 proposed lot occupancy would be 46%.

*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 or conditions.

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

The requested relief would not introduce a nonconforming use.

*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 requested relief would not result in a nonconforming height or number of stories.

## **V. COMMENTS OF OTHER DISTRICT AGENCIES**

As of this writing there are no comments from other agencies in the record.

## **VI. COMMUNITY COMMENTS TO DATE**

The ANC submitted a report in support of the application, at Exhibit 15. As of this writing there are no other comments in the record from the community.