

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Maxine Brown-Roberts – Project Manager
JL Joel Lawson, Associate Director Development Review
DATE: January 18, 2019

SUBJECT: BZA 19892- Request for special exception relief to construct a deck and roof structure not meeting the 1:1 setback requirements on a row dwelling at 434 4th Street, NE

I. OFFICE OF PLANNING RECOMMENDATION

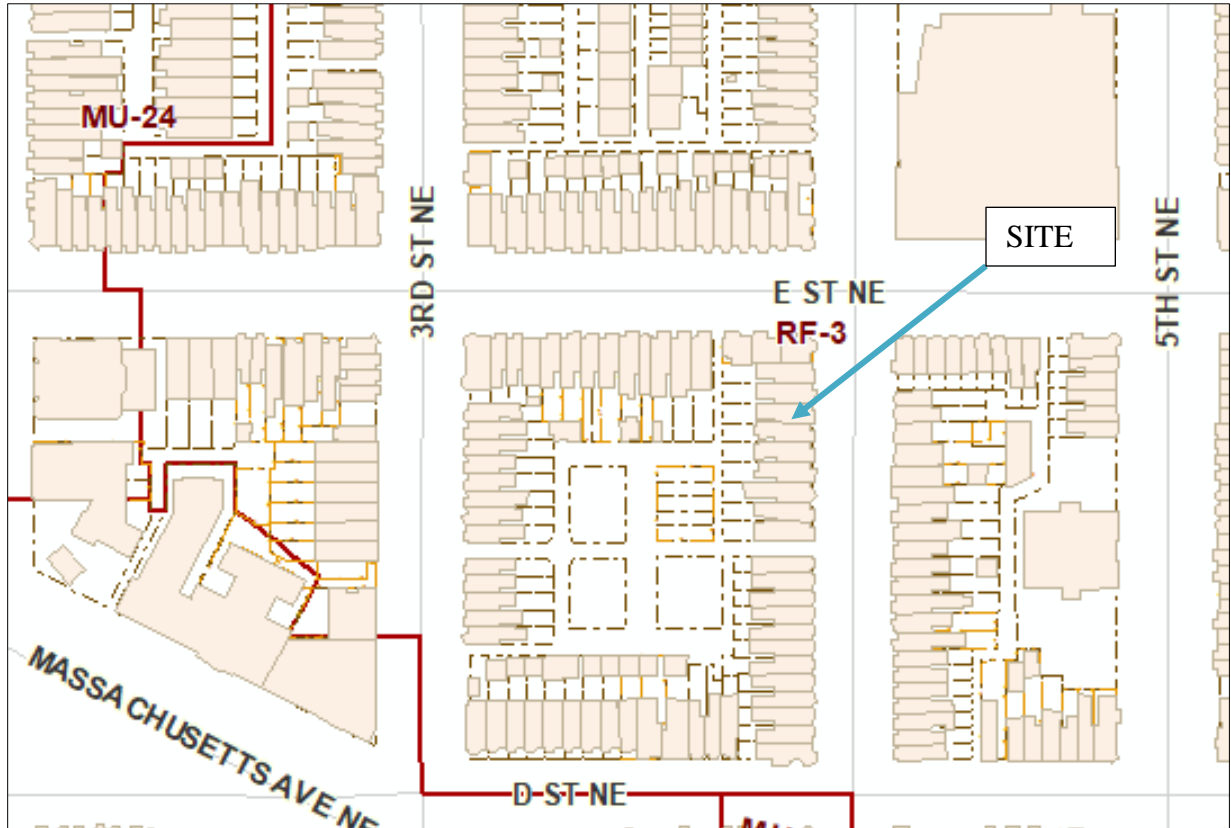
The applicant, Staci B Walkes, proposes to add a roof deck and penthouse to a row dwelling at 434 4th Street, NE in the RF-3 zone. To allow the proposal, the Office of Planning (OP) recommends **approval** of the following special exceptions:

Special Exception:

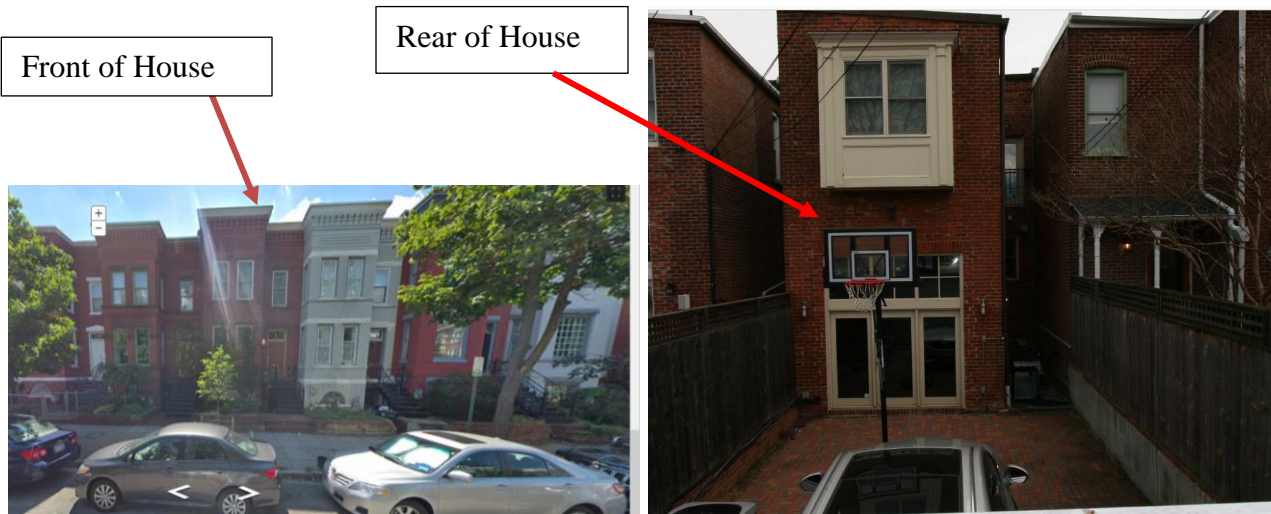
- Subtitle C § 1500.4 pursuant Subtitle X, Chapter 9 to permit a penthouse on a row dwelling;
- Subtitle C § 1502.1(c)(A) pursuant to Subtitle C § 1504 to permit a penthouse not meeting the 1:1 setback requirement; and
- Subtitle E § 5202, Special Exception Criteria Capitol Interest Zones.

II. LOCATION AND SITE DESCRIPTION

Address	434 4 th Street, NE
Legal Description	Square 780, Lot 51
Ward and ANC	Ward 6, 6C
Lot Characteristics	The property is a 1,615 square feet, rectangular lot and abuts a 10-foot wide public alley.
Zoning	RF-3, Capitol Interest Zones
Existing Development	A two-story plus basement row dwelling.
Historic District	Capitol Hill Historic District
Adjacent Properties	The adjacent properties on all sides are two-story row dwellings.
Neighborhood Character	Generally, the area is developed with two-story row dwellings interspersed with a few three-story row dwellings.



Site Location



III. PROJECT DESCRIPTION IN BRIEF

The applicant proposes a roof deck and a penthouse with access stairs from the second floor of the row dwelling.

VI. ZONING REQUIREMENTS

RF-3	Regulation	Existing	Proposed	Relief
Lot Size, Subtitle E § 201.1	1,800 sq. ft.	1,615 sq. ft.	1,615 sq. ft.	Existing Non-Conformity
Lot width, Subtitle E § 201.1	18 ft.	19 ft.	19 ft.	None
Front Setback	Within the range of existing setbacks	Within the range	Within the range	None
Height, Subtitle E § 503.1	35 ft./3 stories	33.5 ft./2 stories	33.5 ft./2 stories	None
Lot Occupancy, Subtitle E § 504.1	60% max. 70% by SE	60%	60%	None
Rear Yard, Subtitle E § 506.1	20 ft.	34 ft.	34 ft.	None
Penthouse on a Row Dwelling Subtitle C § 1500.4	Penthouse on a Row Dwelling not permitted	-	Penthouse proposed on the Row Dwelling	Special Exception
Penthouse Setback, Subtitle C § 1502.1(c)(A)	1:1 setback for the side walls.	-	0 ft. setback from the south side building wall	Special Exception
Penthouse Height	10 ft/1 story	None	8 ft/1 story	None

V. OFFICE OF PLANNING ANALYSIS

Subtitle C § 1500.4 to permit a penthouse on a row dwelling

1500.4 Notwithstanding Subtitle C § 1500.3, a penthouse, other than screening for rooftop mechanical equipment or a guard-rail required by Title 12 of the DCMR, D.C. Construction Code for a roof deck, shall not be permitted on the roof of a detached dwelling, semi-detached dwelling, rowhouse or flat in any zone; however, the Board of Zoning Adjustment may approve a penthouse as a special exception under Subtitle X, Chapter 9, provided the penthouse:

- (a) Is no more than ten feet (10 ft.) in height and contains no more than one (1) story; and*

The penthouse would be eight feet high and one story.

- (b) *Contains only stair or elevator access to the roof, and a maximum of thirty square feet (30 sq. ft.) of storage space ancillary to a rooftop deck.*

The penthouse would contain only stairs access and a 24.4 square feet storage area, storage.

- 1500.6 *All penthouses and mechanical equipment shall be placed in one (1) enclosure, except that a rooftop egress stairwell enclosure not containing any other form of habitable or mechanical space may be contained within a separate enclosure, and shall harmonize with the main structure in architectural character, material, and color.*

The proposed penthouse consists of one enclosure.

- 1500.9 *Enclosing walls of the penthouse shall be of equal, uniform height as measured from roof level, . . .*

The walls are of equal heights.

- 1500.10 *Enclosing walls of a penthouse from roof level shall rise vertically to a roof, with a slope not exceeding twenty percent (20%) from vertical.*

All the walls rise vertically.

Subtitle C § 1502.1(c)(A) pursuant to Subtitle C § 1504 to permit a penthouse not meeting the 1:1 setback requirement.

Subtitle C § 1502.1(c) (1)(A) requires that penthouses be setback from the edge of the roof as follows:

- (c) *A distance equal to its height from the side building wall of the roof upon which it is located if:
 - (1) *In any zone, it is on a building used as a detached dwelling, semi-detached dwelling, rowhouse or flat, that is:
 - (A) *Adjacent to a property that has a lower or equal permitted matter-of-right building height, or***

The proposed penthouse does not provide the 1:1 setback from the southern property line. The applicant has requested relief as provided under Subtitle C § 1504.

1504 RELIEF TO PENTHOUSE REQUIREMENTS

- 1504.1 *Relief to the requirements of Subtitle C §§ 1500.6 – 1500.10 and 1502 may be granted as a special exception by the Board of Zoning Adjustment subject to Subtitle X, Chapter 9 and subject to the following considerations:*

- (a) *The strict application of the requirements of this chapter would result in construction that is unduly restrictive, prohibitively costly, or unreasonable, or is inconsistent with building codes;*

The strict application would require the penthouse to be in the middle of the roof which would require significant and prohibitively costly architectural and structural alterations to the existing house below.

- (b) *The relief requested would result in a better design of the roof structure without appearing to be an extension of the building wall;*

The relief from the required side setback would result in a better design and would provide ease of movement from the lower floor to the deck. It would be located in the middle of a side wall, well back from the front façade and so would not be highly visible or appear to extend the building wall.

- (c) *The relief requested would result in a roof structure that is visually less intrusive;*

The proposed structure would be set back and not be visible from 4th Street. It would not be intrusive on the alley as the building is setback 34 feet from the alley, and the penthouse is set back from the rear wall and would only be 8 feet high.

- (d) *Operating difficulties such as meeting D.C. Construction Code, Title 12 DCMR requirements for roof access and stairwell separation or elevator stack location to achieve reasonable efficiencies in lower floors; size of building lot; or other conditions relating to the building or surrounding area make full compliance unduly restrictive, prohibitively costly or unreasonable;*

Placing the stairs central to the roof would result in a prohibitively high cost to alter the existing house structurally and functionally on the existing lower levels.

- (e) *Every effort has been made for the housing for mechanical equipment, stairway, and elevator penthouses to be in compliance with the required setbacks; and*

The applicant states that all options were explored to meet the requirement, but the configuration of the floor below and the placement of the stairs below dictated the proposed location of the roof access circular stairs.

- (f) *The intent and purpose of this chapter and this title shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely.*

The intent and purpose of this section is met, as the penthouse structure would not affect the light and air of adjacent neighbors, or be visible from the adjacent street.

1504.2 Relief shall not be granted to the setback requirements of Subtitle C § 1502 for a roof structure located on a building constructed to the maximum height allowed by the Height Act.

The building would be at 33.5 feet within the height limit for the zone and with the Height Act.

Subtitle E § 5202, Special Exception Criteria Capitol Interest Zones

**5202 SPECIAL EXCEPTION CRITERIA CAPITOL INTEREST ZONES
(RF-3)**

5202.1 *In the RF-3 zone, in addition to any conditions relative to the specific special exception, any special exception application shall be subject to consideration by the Board of Zoning Adjustment as to whether the proposed development is:*

- (a) *Compatible with the present and proposed development of the neighborhood;*
- (b) *Consistent with the goals and mandates of the United States Congress in title V of the Legislative Branch Appropriation Act, 1976 (Master Plan for Future Development of the Capitol Grounds and Related Areas), approved July 25, 1975 (Pub.L. No. 94-59, 89 Stat. 288); and*
- (c) *In accordance with the plan promulgated under the Act.*

The proposed roof deck and roof structure stairs would retain the present two-story, row dwelling character of the neighborhood and would not be visible from 4th Street. It would be visible from the alley but would be compatible to other structures. The proposal will be reviewed by the Architect of the Capitol for consistency with goals and mandate of the Master Plan for Future Development of the Capitol Grounds and Related Areas.

5202.2 *Upon receipt of the application, the Board shall submit the application to the Architect of the Capitol for review and report.*

The application was submitted to the Architect of the Capitol for review and report.

5202.3 *The Board may require special treatment and impose reasonable conditions as it deems necessary to mitigate any adverse impacts identified in the consideration of the application.*

OP recommends no special treatment.

VI. COMMENTS OF OTHER DISTRICT AGENCIES

The proposal was reviewed and approved by the Historic Preservation Review Board on September 28, 2017. At the time of this report, no other agency has provided comments.

VII. COMMUNITY COMMENTS

The property is within ANC-6C. On January 9, 2019, at a regularly scheduled meeting the ANC voted to recommend approval of the proposal; as of the date of this report, a filing from the ANC had not been submitted to the record. Exhibit 10 contains 10 letters of support.