

**MEMORANDUM**

**TO:** District of Columbia Board of Zoning Adjustment  
**FROM:** Elisa Vitale, AICP, Development Review Specialist  
*JL* Joel Lawson, Associate Director Development Review  
**DATE:** February 12, 2021

**SUBJECT:** BZA Case 20389: Request for area variance relief pursuant to Subtitle X § 1000.1 to allow the subdivision of property at 1915 Shepherd Street NE.

**I. OFFICE OF PLANNING RECOMMENDATION**

The Office of Planning (OP) recommends **denial** of the following variance relief pursuant to Subtitle X § 1000.1:

- D § 206.2, side yard (8 feet required; 2.5 feet proposed); and
- D § 302.1, minimum lot dimensions (50 feet required; 80 feet existing; Lot A – 41 feet and Lot B – 39 feet proposed).

OP notes that the following relief may be needed but has not been requested by the Applicant at this time.

- C § 302.1, subdivision (any lots created must conform to the regulations for yards and minimum lot width; conforming lot existing; two nonconforming lots proposed).

**II. LOCATION AND SITE DESCRIPTION**

Address	1915 Shepherd Street NE
Applicants	Gregory Kearley, architect agent, on behalf of Samuel Medeiros and Jessica Ellis, owners.
Legal Description	Square 4194, Tax Lot 841 (Underlying Record Lots 9, 10, 11, and Part of Lot 8)
Ward / ANC	5 / 5B
Zone	R-1-B: The R-1-B zone is intended to provide for areas predominantly developed with detached houses on moderately sized lots.
Lot Characteristics	The existing lot is generally rectangular in shape and is bounded by Shepherd Street NE to the north, adjoining lots to the south and east, and a 15-foot wide improved public alley to the west.

Existing Development	The property is improved with an existing two-story detached building in single household residential use at 1915 Shepherd Street NE. The house spans record lots 9 and 10 in Square 4194. The property is also improved with a one-story accessory garage building that spans record lots 10 and 11 in Square 4194.
Adjacent Properties	The adjacent property to the east at 1919 Shepherd Street NE is improved with a detached building in single household residential use. The adjacent property to the south at 4012 19 <sup>th</sup> Place NE is improved with a detached building in single household residential use. Across the alley to the west are detached buildings in residential use in the R-1-B zone.
Surrounding Neighborhood Character	The surrounding neighborhood is predominantly residential in nature with detached buildings.
Proposed Development	The Applicant is proposing to re-subdivide the property to create two new record lots. The existing detached building at 1915 Shepherd Street NE would remain, along with the accessory building on new record lot A. A new detached residential building and accessory building would be constructed on new record lot B.

**III. ZONING REQUIREMENTS and RELIEF REQUESTED**

R-1-B Zone	Regulation	Existing	Proposed Lot A <sup>1</sup>	Proposed Lot B	Relief
Height D § 303.1	40 ft. max. / 3 stories	Not provided	Not provided	32 ft. 9 in. / 2 stories	Not requested
Lot Width D § 302.1	50 ft. min.	80 ft. <sup>2</sup>	<b>41 ft.</b>	<b>39 ft.</b>	<b>Variance, both lots</b>
Lot Area D § 302.1	5,000 sq. ft. min.	12,491 sq. ft.	7,323 sq. ft.	5,011.5 sq. ft.	None required
Lot Occupancy D § 304.1	40% max.	Not provided	Not provided	Not provided	Not requested
Rear Yard D § 306.1	25 ft. min.	Not provided	Not provided	Not provided	Not requested
Front Setback D § 305.1	Within range of existing front setbacks	Not provided	Not provided	Not provided	Not requested
Side Yard D § 206.2	8 ft. min.	Not provided	<b>East – Not provided West – 2.5 ft.</b>	East – 8 ft. West – 8 ft.	<b>Variance for Lot A</b>
Pervious Surface D § 308.1	50% min.	Not provided	Not provided	Not provided	Not requested

<sup>1</sup> Information provided by DCRA Referral, Exhibit 3, dated July 24, 2020.

<sup>2</sup> Exhibit 2, DC Surveyor’s Plat, dated October 8, 2020, lists the property width as 78 feet.

<b>R-1-B Zone</b>	<b>Regulation</b>	<b>Existing</b>	<b>Proposed Lot A<sup>1</sup></b>	<b>Proposed Lot B</b>	<b>Relief</b>
Parking C § 701	1 space/du min.	Not provided	Not provided	Not provided	Not requested
Accessory Bldg. Height D § 5002.1	20 ft. / 2 stories max.	Not provided	Not provided	Not provided	Not requested
Accessory Bldg. Rear Yard D § 5004.1	12 ft. from alley centerline	Not provided	Not provided	Not provided	Not requested
Maximum Bldg. Area D § 5006.1	Greater of 30% of req. rear yard or 450 sq. ft.	Not provided	Not provided	Not provided	Not requested

**IV. OP ANALYSIS**

**a. Area Variance Relief from Subtitle D § 206.2, Side Yard; and Subtitle D § 302.1, Minimum Lot Dimensions**

The Applicant is proposing to subdivide an existing tax lot in the R-1-B zone that measures 80 feet in width and approximately 12,491 square feet in area into two non-conforming record lots – one for the existing detached residential building and accessory garage (Lot A) and one for a new detached building for single-household residential use and accessory building (Lot B).

**i. Extraordinary or Exceptional Situation or Condition Resulting in Peculiar and Exceptional Practical Difficulties to the Property Owner**

**a. Extraordinary or Exceptional Situation or Condition**

The Applicant has not demonstrated an exceptional condition that results in an exceptional practical difficulty. The existing tax lot being large is not an extraordinary or exceptional situation or condition of the subject property. Although there are four, and a portion of a fifth, record lots underlying the existing tax lot, this situation is found throughout Square 4194 with other large tax lots superimposed over underlying record lots. The Square has 13 record lots ranging in size from 4,536 square feet to 8,625 square feet; 19 tax lots ranging in size from 2,022 square feet to 13,783 square feet; and one parcel measuring 888 square feet in area.

The existing tax lot is conforming, satisfies the minimum lot width and lot area requirements for the R-1-B zone, and is currently improved with a detached building intended for single-household residential use.

**b. Exceptional Practical Difficulties**

As the Applicant has not demonstrated an extraordinary or exceptional situation or condition with the lot, no practical difficulty to development of this property has been shown. The subject property is currently improved with a detached building and accessory garage.

**ii. No Substantial Detriment to the Public Good**

A subdivision to allow the construction of a new detached building for single household residential use in the R-1-B zone would not typically result in a substantial detriment to the public good, and would provide an appropriate level of infill development. As such, this proposal would not likely

have a significant impact on the public good, although the proposed subdivision creates new nonconformities for the existing building at 1915 Shepherd Street NE on proposed Lot A and would result in two record lots that are non-conforming for lot width.

**iii. No Substantial Impairment to the Intent, Purpose, and Integrity of the Zoning Regulations**

The creation of two substandard lots that do not meet the minimum lot width requirements of the R-1-B zone and would result in the building on Lot A requiring side yard relief would not be consistent with the purpose and intent of the Zoning Regulations.

The regulations are intended to discourage the creation of new non-conforming lots, and to not create new nonconformities for existing buildings. The Subdivision Regulations at Subtitle C § 302.1 state, *“Where a lot is divided, the division shall be effected in a manner that will not violate the provision of this title for yards, courts, other open space, minimum lot width, minimum lot area, floor area ratio, percentage of lot occupancy, parking spaces, or loading berths applicable to that lot or any lot created...”*

**V. OTHER DISTRICT AGENCIES**

The District Department of Transportation (DDOT) filed a report at Exhibit 36 indicating that it did not object to the approval of the application.

**VI. ADVISORY NEIGHBORHOOD COMMISSION**

Comments from ANC 5B had not been filed to the record at the time this report was drafted.

**VII. COMMUNITY COMMENTS TO DATE**

No community comments had been filed to the record at the time this report was drafted.

Attachment: Location Map

**Location Map:**



**1915 Shepherd Street NE**