

OP Report

TO: District of Columbia Board of Zoning Adjustment
FROM: Crystal Myers, Case Manager
 JL Joel Lawson, Associate Director for Development Review
DATE: March 19, 2021
SUBJECT: BZA #20429 – 411 New Jersey Ave. SE– Request for special exception relief to construct a rowhouse flat, as amended

I. RECOMMENDATION

The Office of Planning (OP) recommends **Denial** of the following requested variance:

- E § 506.1 - Rear Yard (20 ft. min, 18 ft. 2 in. proposed)

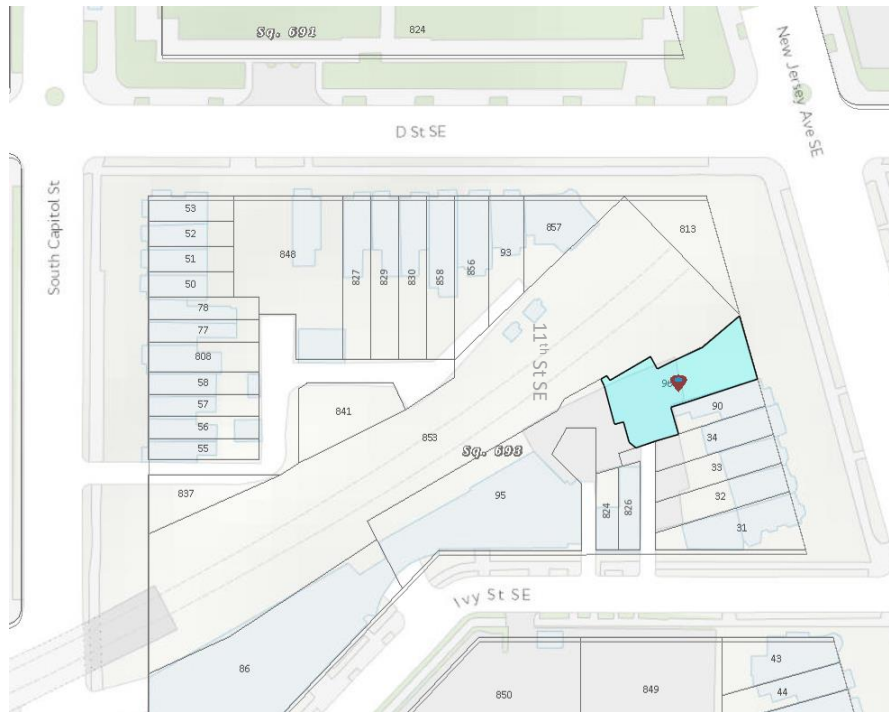
The Office of Planning (OP) recommends **Approval** of the following requested special exceptions:

- E § 205.4 - Rear Extension (10 ft. max, 11 ft. 8 in. proposed)
- E § 503.2 - Height (35 ft. max, 35 ft. 6 in. proposed)
- C§ 1502(b) - Railing set back a distance equal to its height from rear building wall
- C§ 1502(c) - Railing set back a distance equal to its height from side building wall

II. LOCATION AND SITE DESCRIPTION

Applicant	Sullivan and Burros on behalf of MADM Development INC
Address	411 New Jersey Ave SE
Legal Description	Square 96, Lot 693
Ward / ANC	Ward 6, ANC 6B
Zone	PDR-5/RF-3 House on RF-3 portion; Parking on PDR-5 portion
Historic District or Resource	Capitol Hill Historic District
Lot Characteristics	4,005 sq.ft. irregular shaped lot
Existing Development	vacant
Adjacent Properties and Neighborhood Character	The adjacent property to the south is a rowhouse owned by the Congressional Black Caucus and the adjacent property to the west is the National Democratic Club office building. The neighborhood has a mix of residential and office uses.
Proposal	The proposal is for a new rowhouse flat.

III. VICINITY MAP



IV. ZONING REQUIREMENTS AND RELIEF REQUESTED

RF-3 Zone (location of house)	Regulation	Existing	Proposed ¹	Relief
Lot Width E §201	18 ft. min.	32 ft. 10in	32 ft. 10in	Existing
Lot Area E §201	1,800 sq.ft. min.	4,005 sq. ft.	4,005 sq. ft.	Existing
Rear Extension E§ 205	10 ft. max.	Vacant	11 ft. 8 in.	Special Exception Relief Requested
Rear Yard E§ 306	20 ft. min.	52.15 ft.	18 ft. 2 in.	Variance Relief Requested
Height E§ 303	35 ft. max.	vacant	35 ft. 6in	Special Exception Relief Requested
Lot Occupancy E§ 304	60% max. 70% by spec. ex.	vacant	57.8%	Conforming
Vehicle Parking C§ 701	1 space min.	vacant	3 spaces	Conforming
Penthouse Setback	1:1 setback required for guardrails	n/a	Less than 1:1 setback	Special Exception Relief Requested

¹ Measurements provided by Applicants

V. ANALYSIS

SUBTITLE X§1000- Variance Relief from the E § 306 Rear Yard Requirement:

i. Extraordinary or Exceptional Situation or Condition Resulting in Peculiar and Exceptional Practical Difficulties

a. Extraordinary or Exceptional Situation

The lot is unique for the area as it is irregularly shaped, being narrower at the front and widening out towards the rear. However, it is not exceptional as to size, depth, or terrain.

b. Exceptional Practical Difficulties

OP disagrees with the Applicant's argument that the irregular shape of the lot and the need to design a building compatible with the Historic district prevent the provision of the required rear yard. There is adequate lot area and lot depth to the site to develop a building consistent with the zoning regulation requirements for rear yard.

OP reviewed the HPRB and Commission of Fine Arts decisions and neither body conditioned their approval on having a rear yard below the minimum standards for the zone (Exhibits 12&13).

ii. No Substantial Detriment to the Public Good

The proposed rear yard relief should not cause substantial detriment to the public good. The amount of relief being requested is relatively small so it should have minimal impact to the adjacent neighbors. Most of the rear yard abuts non-residential PDR-zoned railroad tracks and a parking lot for an office building.

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

The Applicant has not provided a sufficient argument for why the shape of the lot makes it impractical to provide the required rear yard. As such, granting the proposed variance relief would substantially impair the integrity of the zoning regulations.

SUBTITLE X § 900 Special Exception Relief for rear extension

Is the proposal in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps?

The rear extension would be in harmony with the general purpose and intent of the Zoning Regulations and Maps. It would be 1 foot 8 inches beyond the 10 feet allowed as a matter of right so it would be relatively small. As discussed below, it should have minimal if any impact on the adjacent neighbors' light, air, and privacy.

Would the proposal appear to tend to affect adversely, the use of neighboring property?

The proposed rear extension should not unduly adversely affect the light, air, and privacy of the neighboring properties. The rear wall of the proposed building would be flush with that of the house to the south, with the longer portion approximately 20 feet away from the neighbor's rear wall. This should minimize potential impacts to the neighbor's light and air.

The neighbors' privacy should not be significantly impacted. There would be no windows facing the

southern adjacent property but there would be windows facing the western property. Those windows would face the western neighbor's parking lot so they should not have a significant impact.

5203 SPECIAL EXCEPTION CRITERIA BUILDING HEIGHT

5203.1 The Board of Zoning Adjustment may grant as a special exception under Subtitle X, Chapter 9, and subject to the conditions of this subsection, a maximum building height of up to forty feet (40 ft.) for a principal residential building and Subtitle E-37 any additions thereto located on a non-alley lot subject to the following conditions:

(a) The proposed construction 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;

The applicant is proposing a building height of 35 feet 6 inches, whereas 35 feet is allowed by right, and 40 feet is allowed by special exception. The additional six inches in proposed height would allow the building to match the adjacent building's height. Therefore, the additional height would not impact the neighbor's light and air, particularly since the new building would be to the north of the only adjacent residential neighbor.

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

The neighbors' privacy of use and enjoyment should not be impacted by the increase in height. The additional six inches would not allow additional windows and no windows would face the adjacent rowhouse.

(3) The proposed construction, 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 requested height should not result in the proposed rowhouse flat visually intruding on the street, alley, or any other public way. The additional six inches would give the rowhouse the same height as the adjacent neighbor and would help it to be compatible with the visual character of the street. The height would also not be out of character with the development along the alley. The zoning along the alley is PDR-5 which permits heights of up to 40 ft.

(b) In demonstrating compliance with paragraph (a), the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the proposed construction's height to adjacent buildings and views from public ways; and

The record is complete with plans, drawings, photographs, elevations, and photographs, (Exhibit 33B).

(c) 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.

No special treatment is recommended.

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 deck is proposed on the roof of the second floor at the rear of the lot, and at 240 sq.ft. in size, it would be unduly restrictive to require the limited space of the deck to be further reduced by setting back the railings to the 1:1 setback requirement. If the railings were set back to meet the requirement the deck space would be reduced to 100 sq.ft.

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

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

The requested relief would result in a better design of the roof structure without the structure appearing to be an extension of the building wall. The railings would be for the second-floor deck at the back of the house, so not highly visible from the street, and designed to be distinct from the rest of the building so as not to appear to increase the height of the building. The project uses railings instead of a parapet wall to help reduce the massing of the building at the rear, which was a concern from both the Historic Preservations Review Board and Commission of Fine Arts.

(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 Subtitle C-120 building lot; or other conditions relating to the building or surrounding area make full compliance unduly restrictive, prohibitively costly or unreasonable; (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

N/A-The relief is only for the proposed railings.

(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 chapter would not be materially impaired by the proposed setback relief for the railings. The deck would have no impact on the adjacent building's light and air. The adjacent residence to the south is on a shorter lot so the deck would not be adjacent to the building.

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 proposed height would not exceed the maximum allowed by the Height Act.

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;

The proposed rowhouse flat should be compatible with the neighborhood. The plans show that the building design and height relief should result in a building that fits into the visual context 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. 5202.2 Upon receipt of the application, the Board shall submit the application 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.

The Office of Zoning referred the application to the Architect of the Capitol for comment, (Exhibit 20). As of the writing of this OP report no comments from the Architect of the Capitol have been received.

VI. COMMENTS FROM HISTORIC PRESERVATION STAFF

Historic Preservation Review Board reviewed and approved the project's concept design on February 27, 2020, (Exhibit 13).

VII. COMMENTS OF OTHER DISTRICT AGENCIES

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

VIII. ANC COMMENTS

ANC 6B submitted a report in support of the proposal, (Exhibit 34).

IX. COMMUNITY COMMENTS

The Commission of Fine Arts submitted a letter in support of the concept design, (Exhibit 12).