

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Karen Thomas, Case Manager
JL Joel Lawson, Associate Director Development Review
DATE: January 28, 2022
SUBJECT: BZA Case 20615 - request for special exception relief to allow a two-story rear addition and two-story accessory garage to a semi-detached dwelling.

I. RECOMMENDATION

The Office of Planning (OP) recommends **approval** of the following special exception pursuant to Subtitle E § 5201:

- E § 304.1 Lot Occupancy (60% max. permitted, 43.6% existing; 68.3 % proposed).
- E § 207.4 Side Yard (3 feet min. allowed; 1.94 feet existing; none proposed)

II. LOCATION AND SITE DESCRIPTION

Address:	751 10 th Street SE
Applicant:	Thomas Picarsic and Katherine Kuzma
Legal Description:	Square 950, Lot 84
Ward / ANC:	Ward 6/ ANC6B04
Zone:	RF-1, low density residential zone allowing single family dwellings and flats
Historic District	Capitol Hill HD
Lot Characteristics:	The lot is rectangular with unremarkable grade differences from front to rear.
Existing Development:	The property is developed with a 2-story, semi-detached home.
Adjacent Properties:	The adjacent property to the north is a 4-story apartment building, to the south is another semidetached home. The Square is comprised of similar type residential development, bifurcated by an east-west alley connecting 10 Street to the east and 9 th Street to the west.
Surrounding Neighborhood Character:	Across 10 th Street to the east is the Tyler Elementary school complex including the school building and a recreational field occupying the entire square and the Marine Barracks to the west across 9 th Street SE.

Proposed Development:	The applicant proposes a two-story rear addition and a two-story accessory building with parking on the ground floor and living space (not a separate dwelling unit) on the upper floor. The proposed building addition would expand the first and second floor levels of the existing two-story dwelling, increasing the lot occupancy from 42.3% to 68.3%. The addition would eliminate an existing non-conforming side yard adjacent to the addition, resulting in one with varying width of 1.94 feet to 6.8 feet.
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III. ZONING REQUIREMENTS and RELIEF REQUESTED

RF-1 Zone	Regulation	Existing	Proposed ¹	Relief:
Height E § 303	35 ft. max.	22 ft.	22 ft.	None required
Lot Width E § 201	18 ft. min.	19.75 ft.	19.75 ft.	None required
Lot Area E § 201	1,800 sq. ft. min.	1,992 sq.ft.	1,992 sq.ft.	None required
Lot Occupancy E § 304	60% max.	42.3 %	68.3 %	Requested
Rear Yard E § 306	20 ft. min.	48.66 ft.	46.16 ft.	None required
Side Yard E § 207	None required, but 5 ft. min. if provided ²	1.94 to 6.8 ft	0 ft. to 6.8 ft.	Requested
Parking C § 704	1 space	1 space	No change	None required

IV. ANALYSIS

Subtitle E Chapter 5201 ADDITION TO A BUILDING OR ACCESSORY STRUCTURE

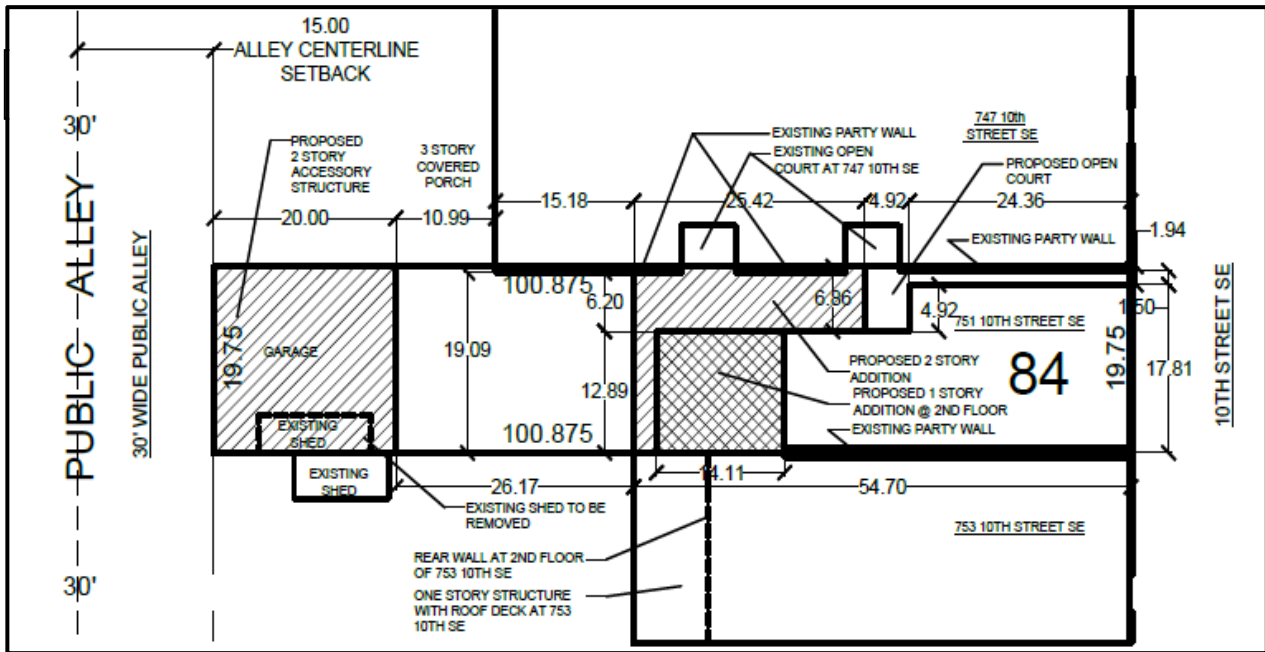
5201.1 For an addition to a principal residential building on a non-alley lot or for a new principal residential building on a substandard non-alley record lot as described by Subtitle C § 301.1, the Board of Zoning Adjustment may grant relief from the following development standards of this subtitle as a special exception, subject to the provisions of this section and the general special exception criteria at Subtitle X, Chapter 9:

- (a) **Lot occupancy** up to a maximum of seventy percent (70%) for all new and existing structures on the lot;
- (b) **Yards**, including alley centerline setback;
- (c) **Courts**; and
- (d) **Pervious surface**.

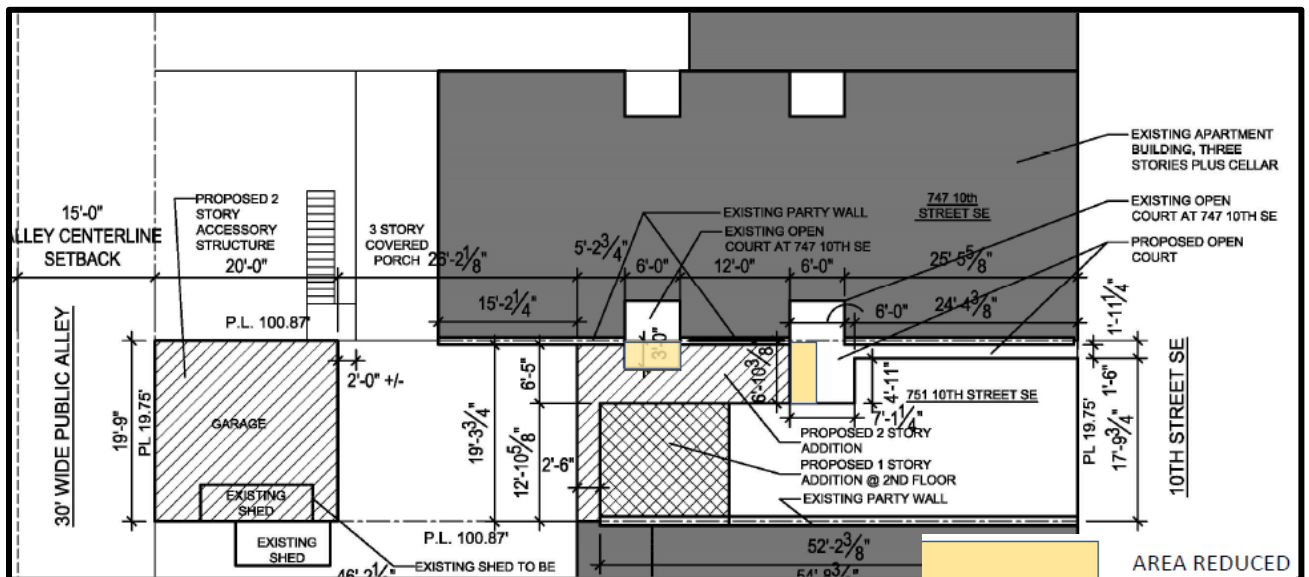
The proposed addition would expand the first and second floor levels of the existing two-story dwelling, increasing the lot occupancy from 42.3% to 68.3%. Initial plans (Exhibit 6) showed the proposed addition eliminating a portion of an existing 1.94-foot wide non-

² E § 207.4: In the case of a building with a non-conforming side yard, an extension or addition may be made to the building; provided, that the width of the existing side yard shall not be reduced or eliminated; and provided further, that the width of the side yard adjacent to the extension or addition shall be a minimum of three feet (3 ft.).

conforming side yard. A portion of the side yard, with varying width of 1.94 feet to 6.8 feet, would extend from the front of the property to the addition at the property line (about 29 feet) (**Exhibit 2** – Plat reproduced here for ease of reference).



In response to concerns raised by the abutting owner of the apartment building to the north regarding the potential impact to light and air to units facing the courtyard, the applicant amended the application to propose a redesign submitted as **Exhibit 27** (reproduced plan in part) shown below:



This revision provides a 3-foot setback from the property line opposite a court on the neighboring building. This does not materially impact the side yard relief required but reduces the initial proposed lot occupancy from 69.9% to 68.3%.

5201.2 *For a new or enlarged accessory structure to a residential building with one (1) principal dwelling unit on a non-alley lot, the Board of Zoning Adjustment may grant relief from the following development standards as a special exception, subject to the provisions of this section and the general special exception criteria at Subtitle X, Chapter 9:*

- (a) **Lot occupancy** up to a maximum of seventy percent (70%) for all new and existing structures on the lot;
- (b) **Yards, including alley centerline setback;**
- (c) **Courts; and**
- (d) **Pervious surface.**

The proposed accessory building would contribute to the increase in the lot occupancy in conjunction with the proposed two-story rear addition, but the property would remain below the 70% permitted by special exception under this section.

5201.3 Not relevant to this application.

5201.4 *An applicant for special exception under this section shall demonstrate that the proposed addition, new building, 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;*

749 10th St SE (Abutting neighbor to the north)



747 10TH STREET SE



EXISTING COURT

The proposed 22-foot high addition would share the party wall of the apartment building to the north and effectively create opposite-facing courts on the subject property to maintain a separation for light and air to windows of the closed court of the apartment building to the north.

Photos provided by the applicant show existing shadowing from the subject two-story structure onto the adjacent 35-foot tall

apartment building. In addition, shadows would normally occur on the existing cellar units in the apartment building, below the level shown in the photo (left) above.

The applicant provided an initial Sun Study (Exhibit 22) and a revised study (Exhibit 28) to demonstrate the effects on available light to windows on the adjacent building, comparing the existing situation, a matter-of-right addition, and the initial and proposed scenarios at Fall /Spring and during Summer/Winter - shortest and longest days of the year. Based on these studies, there seems to be little to no significant

change in shadowing that would occur on windows for the adjacent building, including the cellar units. The first and second story windows would lose some direct light and would be shadowed between 11 am and 1 pm during the Spring and Fall, as shown in the study.

The study appears to indicate that a matter-of-right addition at three stories but maintaining the existing side yard, as requested by the neighbor, would also impact light to the windows in the court. The revision to the subject application to effectively provide complementary courts (6 feet L x 3 feet W) opposite the one for the adjacent apartment building mitigates this adverse impact of the addition on light or air to residents of the apartment building. (See discussion under X §.901.2, Page 7)

753 10th Street SE (Abutting neighbor to south)

The rear wall of the proposed addition will align with the rear wall of the home to the south at the first floor (753 10th St SE). The addition at the second floor will extend approximately 8 feet beyond the rear wall of this home in the area of that home's second story roof deck. Due to the orientation, there should be little to no impact to the available light. The owners of 753 10th Street submitted a letter of support at Exhibit 14. Further, since the subject property is to the north, the proposed two-story garage should not cast shadows onto the home to the south.

Impact to the rear yards of neighbors fronting 9th Street should not be undue since there is a 30-foot wide alley and existing rear brick garages between the subject lot and the properties fronting 9th and 10th Street SE.

Accessory Building Addition:

The addition of the accessory building should not have significant impact to light and air to the rear decks of the adjacent apartment building. There are existing trees along the property line which currently provide some shade to the first floor deck and any additional shade from the garage would be negligible.

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

The privacy of use and enjoyment of neighboring properties should not be unduly compromised. The proposed addition would not contain windows on the south or north elevations, including where the side wall would provide the 3 feet wide and 6 feet long setback opposite the neighbor's court.

The accessory structure would provide parking on the ground floor and a recreation area on the second floor, with windows facing the rear yard of the subject property. The apartment owner expressed concerns regarding privacy due to the proximity of the garage structure to the apartment decks, including at the second level. However, views from the recreation room would be limited and primarily focused away from #749 due to the extended party wall of the apartment building.

The rear garage windows may offer some views towards the rear of homes fronting 9th Street SE. However, other existing garages of homes immediately opposite should mitigate view impacts.

- (c) *The proposed addition or accessory structure, together with the original building, or the new principal 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 street or alley frontage; and*

The proposed two-story addition would not be visible from the street as it would be at the rear of the existing building. The addition and the proposed two-story accessory building would be visible from the alley, similar to other accessory buildings along the alley. As such, the proposed additions to the property should not substantially intrude upon the character or scale of houses on the street or alley.

- (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.*

The applicant's submission satisfying this requirement includes Exhibits 5,6, 27 and 28 of the record. A solar affidavit was also included at Exhibit 23.

- 5201.5 *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 does not suggest additional treatment to protect adjacent properties.

- 5201.6 *This section shall not be used to permit the introduction or expansion of a nonconforming use, lot occupancy beyond what is authorized in this section, height, or number of stories, as a special exception.*

Based on submitted drawings, all other bulk and yard requirements beyond that requested are satisfied with this request.

Special Exception X § 901.2

- (a) *Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;*

The proposed addition and the accessory structure would be in harmony with the intent of the Regulations and map as anticipated for development within the RF-1 zone. The light and air to the most affected property at 749 10th Street would not be appreciably different from a matter-of-right addition to the home.

The owners of adjacent #749 would prefer the applicant setback its addition 3 feet to maintain the side yard on the subject property. Although a side yard is not a requirement in the RF-1 zone, the regulations do limit the elimination of existing side yards but provide a special exception process for removal of non-conforming side yards, as in this instance. The applicant proposed a redesign to mitigate any loss to light or air to windows within the neighbor's court, and no windows would be covered.

- (b) *Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and*

The use of neighboring property should not be significantly adversely affected as

discussed under the criteria of E § 5201 above. OP supports the applicant's revision to maintain a separation from the neighbor's courts by including setbacks from the property line opposite the court to mitigate impacts to light and air to residents of the neighbor's apartment building.

(c) *Will meet such special conditions as may be specified in this title.*

No conditions are specified beyond the requirements of Subtitle E § 5201.

V. OTHER DISTRICT AGENCIES

At Exhibit 35 are comments from DDOT, indicating no objection to this proposal. There were no other agency comments included in the record at the writing of this report.

VI. ADVISORY NEIGHBORHOOD COMMISSION

As of the date of this report, the ANC had not filed comments to the record.

VII. COMMUNITY COMMENTS TO DATE

At the writing of this report, eight letters had been filed in support of the application at Exhibits 12 through 16 including the abutting neighbor at # 753 10th Street, S.E. (Exhibit 14), and Exhibits 24-26.

The abutting neighbor to the north at #749 has filed a request for party status in opposition to the proposal at Exhibit 34. There are four other letters in opposition at Exhibits 30 – 33.

Figure 1: Location Map

