

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Stephen J. Mordfin, Development Review Specialist
 Joel Lawson, Associate Director Development Review
DATE: March 18, 2022
SUBJECT: BZA Case 20679: **EXPEDITED** request for special exception to permit two new rear decks and a new rear yard shed.

I. RECOMMENDATION

The Office of Planning (OP) recommends **approval** of the following special exceptions pursuant to Subtitle E § 5201 and X § 901:

- E § 304.1, Lot Occupancy (60 percent maximum permitted; 65.51 percent existing; 69.39 percent proposed); and
- E § 306.1, Rear Yard (20-foot minimum required; 19 feet existing; 15 feet proposed).

II. LOCATION AND SITE DESCRIPTION

Address	2205 Flagler Place, N.W.
Applicant	Jay B. Lurie
Legal Description	Square 3122, Lot 60
Ward, ANC	Ward 5, ANC 5E
Zone	RF-1
Historic District	Bloomingdale Historic District
Lot Characteristics	Rectangular-shaped lot with a 3-foot wide right-of-way for alley purposes to the rear.
Existing Development	2-story row house with a second floor rear deck, a first floor landing with a stair for first-floor access to the rear yard, a rear yard shed along the northern property line, and no off-street parking.
Adjacent Properties	Row houses
Surrounding Neighborhood Character	Moderate density residential with locally serving retail
Proposed Development	1. Replacement of existing second floor deck and first floor landing and stairs, with two new decks, one on each floor; and 2. Replacement and reorientation of the rear yard shed.

III. ZONING REQUIREMENTS and RELIEF REQUESTED

RF-1 Zone	Regulation	Existing	Proposed	Relief
Height E § 303	35 ft. max.	28.03 feet	28.03 feet	None Required
Lot Width E § 201	18-foot min.	16.66 feet	16.66 feet	None Required
Lot Area E § 201	1,800 sq. ft. min.	1,326 sq. ft.	1,326 sq. ft.	None Required
Lot Occupancy E § 304	60% max.	65.51%	69.39%	REQUIRED
Rear Yard E § 306	20-foot min.	19 feet	15 feet	REQUIRED
Parking C § 701	None	None	None	None Required

IV. ANALYSIS

A. 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 subject application proposes a lot occupancy of 69.39 percent, less the maximum 70 percent permitted by special exception pursuant to this section, and to reduce the rear yard from 20 feet to 15 feet for the construction of a two-level deck at the rear of a one-family row house.

5201.2 & 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;*

The applicant submitted a shadow study (Exhibit 10, Tab C, pages 14 through 17) portraying the shadowing resulting from the existing and proposed construction, for the spring and fall equinoxes and the summer and winter solstices. They depict, at most, minor changes to the existing situation on the subject property. Although the application states that the adjacent row house to the north has a rooftop solar installation, the proposed decks would not increase the height of the building and would not have an impact on that installation. A letter from the adjacent property owner to the north in support of the application can be found in Exhibit 10, Tab D, Page 21.

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

The two new decks should not compromise the privacy of use and enjoyment of neighboring properties. The new second floor deck would be constructed generally in the same location as the existing deck, and the new first floor deck would be constructed beneath it. A lattice privacy screen is proposed along the adjacent property line to the north, and in combination with the existing building extension on the row house to the south, should ensure that the use of the neighboring properties would not be unduly compromised.

- (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 rear wall of the adjacent row house to the south has a building extension that extends further east into the rear yard than the rear wall of the subject property, minimizing the view of the proposed decks from W Street to the south. Rear building extensions and other two-story decks along the same row of houses to the north would minimize the view of the decks from the east/west alley to the north, while also maintaining the character of the houses along the private north/south 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 submitted plans, photographs and elevation drawing sufficient to represent the relationship of the proposed decks to adjacent buildings.

- 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 makes no recommendations for special treatment.

- 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.*

The subject application would not result in the introduction or expansion of a nonconforming use, lot occupancy beyond what is authorized in this section, or an increase in building height or number of stories as a special exception.

B. Subtitle X Section 901 SPECIAL EXCEPTION REVIEW STANDARDS

901.2 *The Board of Zoning Adjustment is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2), to grant special exceptions, as provided in this title, where, in the judgment of the Board of Zoning Adjustment, the special exceptions:*

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

The proposed decks would be for the private use of a one-family row house, a use permitted as a matter-of-right within the RF-1 zone, providing usable outdoor space for that residence only.

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

The requested special exception would allow for private outdoor residential space at the rear of the subject property, accessory to that dwelling only. As the proposal includes a privacy screen on the north side of the decks, in combination with the existing rear building addition on the adjoining lot to the south that extends further into the rear yard than the rear wall of the subject property, the proposed decks should not have an adverse effect on neighboring properties.

(c) *Subject in specific cases to the special conditions specified in this title.*

The subject application is in conformance with Subtitle E § 5201, specific special conditions applicable when the proposed lot occupancy would be 70 percent or less in the RF-1 zone, as described under paragraph “A” above. A lot occupancy of 69.39 percent is proposed.

The Historic Preservation Office had no comments on the subject application.

V. OTHER DISTRICT AGENCIES

No comments were submitted to the record from other District agencies as of the date of the filing of this report.

VI. ADVISORY NEIGHBORHOOD COMMISSION

No comments were submitted to the record from ANC 5B as of the date of the filing of this report.

VII. COMMUNITY COMMENTS TO DATE

Seven letters were submitted to the record in support of the application. (Exhibit 10, pages 19-21; and exhibits 16-18 and 21)

Location Map

