



MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Jennifer Steingasser, Deputy Director
DATE: April 5, 2011
SUBJECT: BZA Case 18195 – Request to construct a nonconforming attic while rebuilding, as a matter-of-right, a collapsed flat at 218 Morgan Street, NW

I. RECOMMENDATION

The Office of Planning (OP) recommends **approval** of the necessary zoning relief. The following variance was requested by the applicant:

1. Construct an addition to a nonconforming structure (§ 2001.3);

In addition, OP notes that the following relief is also required:

2. Lot Occupancy of 63.5% (60% permitted - § 403).

OP rarely recommends approval of such relief, but in this case the applicant has adequately demonstrated unique circumstances that result in the OP recommendation of approval.

II. LOCATION AND SITE DESCRIPTION

Address	218 Morgan Street, NW
Legal Description	Square 555, Lot 80
Ward and ANC	6C
Lot Characteristics	Normal rowhouse lot with alley access. Currently vacant.
Background	During underpinning next door, contractors dug under the foundations of the subject property, causing it to collapse. The Zoning Administrator has determined that the previous house could be reconstructed as it was as a matter-of-right, in conformance with Chapter 20 of the Zoning Regulations. No relief is needed to rebuild the house. The owner, however, wishes to increase the size of the attic. This requires relief from § 2001.3 because the reconstructed house will be over lot occupancy, and from § 403, because the attic itself will exceed lot occupancy.
Zoning	R-4 (Rowhouse Residential)

Adjacent Properties	Vacant lot to the east, rowhouse across the alley to the west
Surrounding Neighborhood Character	Mostly rowhouses; on small apartment building, a church and some commercial structures along New York Ave.

III. PROJECT DESCRIPTION IN BRIEF

Applicant	Nancy Green-Johnson, homeowner
Proposal	As part of the matter-of-right reconstruction of a collapsed flat, construct a nonconforming attic that is larger than the previously existing attic.
Relief Required	Constructing an addition on a property that does not conform to lot occupancy; Lot occupancy relief for the addition itself.

IV. ZONING REQUIREMENTS

Item	Section	R-4	Existing*	Proposed Attic	Relief
Height	400	40', 3 stories	~30'	No change	Conforming
Lot Area	401	1,800 sf	2,000 sf	No change	Conforming
Lot Width	401	18'	20'	No change	Conforming
Lot Occupancy	403	60% (1,200 sf)	70.8% (1,415.8 sf)	63.5% (1,270 sf)	Required
Rear Yard	404	20'	24'	No change	Conforming
Side Yard	405	None required	None	No change	Conforming
Parking	2101	1 per flat	1	No change	Conforming
Additions to Nonconforming Structures	2001.3	No additions to a building exceeding lot occ.	Exceeds lot occupancy	n/a	Requested

* In this case "Existing" refers to the state of the previously existing house that will be rebuilt exactly as it was.

V. ANALYSIS

In order to be granted a variance, the applicant must demonstrate how the property meets the three-part test described in §3103.

- Does the property exhibit specific uniqueness with respect to exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situations or conditions?**

The subject property is unique because the house on the site collapsed, through no fault of the owner, and is being rebuilt. The Zoning Administrator (ZA) determined, pursuant to Chapter 20 of the zoning regulations, that the nonconforming house can be rebuilt as a matter-of-right to the same size as before.

2. Does the extraordinary or exceptional situation described in the first part of the variance test impose a practical difficulty which is unnecessarily burdensome to the applicant?

The unique condition affecting this house imposes a practical difficulty on the applicant. If the house were still standing, § 223 could be used to review the expanded attic as an addition to the house. Section 223 allows an addition to a single family residence or flat as a special exception, even if the addition does not meet all regulations for yards and lot occupancy, for example, or does not meet the requirements of § 2001.3 for additions to a nonconforming structure. Because the house is being rebuilt, it is not clear that the provisions of § 223 can be applied to this property. OP made a number of unsuccessful attempts to clarify this aspect of the case with the ZA.

3. Can the relief be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations and Map?

Relief could be granted without detriment to the public good. The expanded attic would have little to no impact on the light or air available to nearby properties and would not impact privacy for neighbors. The addition may be visible from Morgan Street, but only slightly. Also, granting relief would not impair the intent of the Zoning Regulations. OP normally considers a variance from § 2001.3 to be against the intent of the regulations, because the intent of § 2001.3 is so plainly spelled out. In this case, however, because of the extremely unusual circumstances, relief would not impair the intent of the regulations as it would allow an addition that, without the unique conditions, could be allowed by special exception. In fact, the applicant could theoretically rebuild the house as it was, then apply for a special exception under § 223 at a later time. Granting relief now would consolidate and simplify the process for the property owner.

VI. HISTORIC PRESERVATION

The subject property is located in an historic district and the house, including the expanded attic, has received conceptual approval from the HPRB.

VII. COMMENTS OF OTHER DISTRICT AGENCIES

As of this writing the Office of Planning has received no comments on this application from other District agencies.

VIII. COMMUNITY COMMENTS

As of this writing, the Office of Planning has received no comments regarding the proposal from the ANC or from the community.

IX. ATTACHMENTS

1. Vicinity Map

Attachment 1 Vicinity Map

