



MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Jennifer Steingasser, Deputy Director
Development Review & Historic Preservation

DATE: December 1, 2009

SUBJECT: BZA Application 18005 – Attias O Street, LLC
2142 O Street, N.W. (Square 69, Lot 218)
Request for a variance from Section 2001.3(a)(b), to permit the enlargement of a nonconforming structure.

APPLICATION

The application by Attias O Street, LLC (applicant) requests, pursuant to 11 DCMR 3103.2, variances from Section 2001.3(a)(b), to permit the enlargement of a nonconforming structure that exceeds the required lot occupancy. The property is in the Dupont Circle Overlay (DC)/R-5-B district. The plans which were originally submitted has been revised and replaced with plans dated November 9, 2009.

RECOMMENDATION

The Office of Planning (OP) supports the renovation of the building including the addition of a third floor within the limits of the Zoning Regulations and consistent with the intent of the DC Overlay. The applicant has demonstrated that the addition of the third floor, with relief from the lot occupancy requirement, would not negatively impact the adjacent neighbors or the public good. OP therefore recommends **APPROVAL** of this relief. OP does not support an increase in FAR and the applicant should demonstrate that the square footage of the building does not exceed 1.8 FAR.

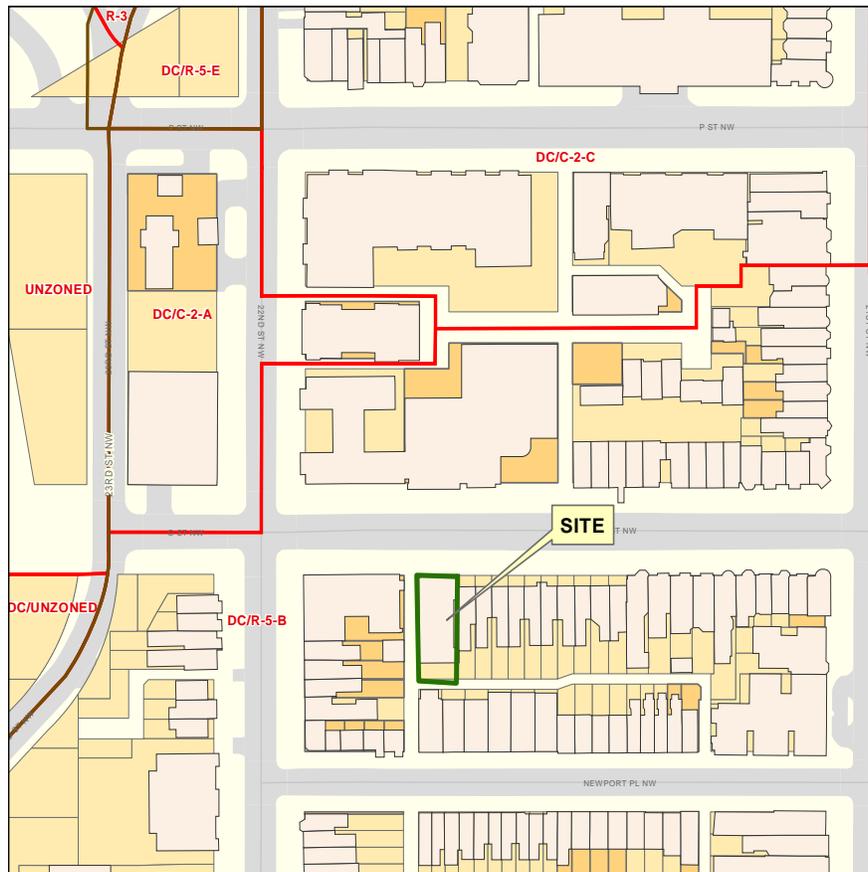
SITE LOCATION

The subject site is located at 2214 O Street, N.W. (Square 69, Lot 218) and is developed with a two-story plus English basement apartment building. The building which formerly had 10 units has been vacant for a long time and has begun to lose its structural integrity. The property is adjacent to a 15-foot wide alley to the west and a 10-foot wide alley to the south. The area is generally developed with predominantly two- and three-story row houses, although there are also some four and five-story apartment buildings

BACKGROUND

The subject property was the subject of BZA 17447 in 2006 which requested an increase in FAR, an addition of a third floor and the enlargement of a non-conforming structure to accommodate 9 units. The applicant failed to appear at the public hearing and the application was dismissed. The property has remained boarded up and has since been purchased by the applicant. Unlike the previous application the application is not requesting FAR relief





SITE LOCATION

PROJECT DESCRIPTION

The interior of the existing building has been gutted and the applicant proposes to re-subdivided the interior, add a third floor, and transform it into an eight unit, condominium building. There would be four units on the first/cellar floors and four units on the second/third floors. The rear first/cellar floor units would have rear yards while the front first/cellar floors would have individual porches. The upper four units would have terraces on the 3rd floor. The proposed third floor would be setback twelve feet from the existing roof facade to minimize the visual impact of the addition.

HISTORIC PRESERVATION

The subject property is within the Dupont Circle Historic District and is a contributing building. The proposal was reviewed by the Historic Preservation Review Board (HPRB) on November 19, 2009. HPRB gave the proposal concept approval with final approval delegated to Historic Preservation staff of the OP, with the condition that the applicant continues to work with the staff to address the design of the addition, its fenestration, alterations of window openings, and the replacement and repair of bricks on the façade of the building. (See attached Report)

ZONING

The subject site is in the DC Overlay/R-5-B district. The purpose of the DC Overlay District is to “Require a scale of development consistent with the nature and character of the Dupont Circle area in height and bulk; and to ensure a general compatibility in the scale of new buildings with older, low scale buildings by restricting the maximum permitted height and floor area ratio of new buildings to that of the underlying zone.” The R-5-B district is for developments with moderate

height and density. The DC/R-5-B district requirements and how they are met by the proposal are outlined below:

Item	Required/Allowed	Existing	Proposed	Deviation
Lot area	None Required	4,033 sq. ft.	4,033 sq. ft.	N/A.
Lot Occupancy	60%	79.5%	79.5%	19.5% (existing)
Rear yard	15 ft.	15.75 ft.	15.75 ft.	N/A
FAR	1.8	1.59	1.61	N/A
Height	50 ft.	27.66 ft.	35.75 ft.	N/A
Parking ¹	0	0	0 spaces	N/A

¹The building currently does not have any parking spaces and is a contributing building. The additional square footage is less than 25% of the current floor area and therefore parking does not have to be provided. (Section 2100.7)

VARIANCE RELIEF

The existing building has been gutted and the applicant proposes to add a third floor of approximately 1,203 square feet. This building would have a total of approximately 6,504 gross square feet and 1.6 FAR which is below the 1.8 FAR allowed. The existing building is a non-conforming structure because it exceeds the lot occupancy requirement. However, the proposed addition would not increase the lot occupancy.

Non-conforming Structure

The structure is currently non-conforming because it exceeds the lot occupancy requirement and Section 2001.3 states:

- "2001.3 Enlargements or additions may be made to the structure; provided:*
(a) The structure shall conform to percentage of lot occupancy requirements;
(b) The addition or enlargement itself shall:
(1) Conform to use and structure requirements; and
(2) Neither increase or extend any existing, nonconforming aspect of the structure, nor create any new nonconformity of structure and addition combined."

The subject property currently has a lot occupancy of 79.5% which is above the maximum 60% permitted in the R-5-B district and therefore makes the building non-conforming. The proposed addition would not increase the lot occupancy. As seen on the submitted plans, the applicant proposes to add a porch on the front of the building. This porch would be in public space and therefore is not included in the lot occupancy.

The addition would not cause an increase in the FAR. The building has a cellar area which would be occupied but is not included in the FAR calculations. In a letter from the Zoning Administrator (attached) the "grade-plane" method of measurement is deemed appropriate. Based on this method of measurement the cellar area is not included in the FAR calculations.

The following addresses the requested variance:

The property is unique by reason of its exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situation or condition;

The existing development on the lot is exceptional as it was built in 1913 and exceeds current lot occupancy requirements.

Due to the aforementioned unique or exceptional condition of the property, the strict application of the Zoning Regulations will result in peculiar and exceptional practical difficulties or an exceptional and undue hardship upon the owner of the property.

In order to construct any conforming addition, the building would be required to meet the lot occupancy requirement. This would be a practical difficulty, as it would require demolishing portions of the building. Such an action is not possible because the building is within a historic district, is a contributing building and demolition would not be allowed.

The variance will not cause substantial detriment to the public good and will not impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

The variance to allow the addition with a lot occupancy that exceeds that allowed in the R-5-B district would not be a detriment since the proposed addition would not expand the existing building footprint, and be setback 20 feet from the front of the building and six feet along the side that is adjacent to the alley. The setbacks, required by HPRB, would minimize shadows that may impact adjacent properties and would not affect the neighbors light.

The proposed addition would make it feasible to bring this structure back into being a productive part of the community and would also not erode the integrity of the zone plan as the building would be for residential use and meet all other requirements. Further, at the intersection of the side and rear alleys, the proposed fence would be pulled back to facilitate better vehicular access from one alley into the next. The applicant would also provide an enclosure on the subject property, along the side alley, to accommodate trash storages and pick-up. This enclosure would be similar to that at the adjacent apartment building. This location would facilitate easy pick-up by the private trash company.

Dupont Circle Overlay District

The Dupont Circle Overlay describes the area as a “unique resource” that should be “preserved and enhanced.” Section 1501.4 outlines the purpose of the DC Overlay District that the proposal should meet.

- (a) *Require a scale of development consistent with the nature and character of the Dupont Circle area in height and bulk; and to ensure a general compatibility in the scale of new buildings with older, low scale buildings by restricting the maximum permitted height and floor area ratio of new buildings to that of the underlying zone;*

The proposal is within the allowed height and allowable FAR. The proposed building already exceeds the lot occupancy requirements of the district but would be consistent with the intent of the overlay that buildings should be kept at a low scale.

- (b) *Protect the integrity of "contributing buildings", as that term is defined by the Historic Landmark and Historic District Protection Act of 1978, effective March 3, 1979 (D.C. Law 2-144, as amended; D.C. Official Code §§ 6-1 101 to 6-1115 (2001)(formerly codified at D.C. Code §§ 5-1001 to 5-1015 (1994 and 1999*

Supp.))), in the various historic districts within the overlay district; to require compatibility of development with the purposes of D.C. Law 2-144; and to preclude demolitions or partial demolitions that would lead to an increase in height and floor area ratio inappropriate to the area;

The proposal was reviewed by HPRB and given conceptual design approval for the addition which would be within the height and FAR appropriate for the area. The applicant was directed to continue working with staff to address façade issues.

- (c) *Enhance the residential character of the area by maintaining existing residential uses and controlling the scale, location, and density of commercial and residential development;*

Bringing the structure back into productive use would help to maintain the residential uses of the property and the addition of a third floor would still be within the scale and density of the development as envisioned by the Overlay.

- (d) *Ensure compatibility of development with the Comprehensive Plan;*

The proposal is generally consistent with the Comprehensive Plan to maintain residential neighborhoods. Section 1104.1(a) in support of residential neighborhoods states that the Districts' sound, established neighborhood should be conserved and maintained ". . . through the strict application and enforcement of housing, building, and zoning and the maintenance of the general level of existing residential uses, densities, and heights." and this proposal would retain the existing residential use and density.

- (e) *Preserve areas planned as open gardens and backyards and protect the light, air, and privacy that they provide;*

The footprint of the building would not be enlarged and the backyard would be retained. The third story addition would be setback so as not to negatively affect the light and privacy of the adjacent neighbors.

- (f) *Enhance the streetscape by maintaining the public space in front of buildings as landscaped green spaces and limited curb cuts on Connecticut Avenue; and*

Historically, the building was constructed with a front porch which was removed. A new porch would be added to bring the building back to its historical context. This porch would be constructed in the public space. The site does not front on to Connecticut Avenue and no additional curb cuts are proposed.

- (g) *Encourage greater use of public transportation and the free circulation of vehicles through public streets and alleys.*

The proposal does not provide any on-site parking spaces and therefore the development would not impact circulation in the adjacent alleys.

COMMUNITY COMMENTS

On November 11, 2009, ANC-2B voted to recommend approval of the requested variance.

RECOMMENDATION

OP supports the renovation of the property including the proposed construction of a third floor addition within the limits of the Zoning Regulations and consistent with the intent of the DC Overlay. The applicant has demonstrated that the addition of the third floor as proposed would not negatively impact the adjacent neighbor or the public good. OP supports the relief for the non-conforming structure as it relates to lot occupancy and recommends **APPROVAL** of this relief. OP does not support an increase in FAR and the applicant should demonstrate that the square footage of the building does not exceed 1.8 FAR.

Attachment:

1. Historic Preservation Staff Report

JLS/Staff: Maxine Brown-Roberts