

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Stephen Gyor, Case Manager
 Joel Lawson, Associate Director Development Review
DATE: October 9, 2012
SUBJECT: BZA Case 18415, 1932 9th Street NW, Construction of a new mixed-use building

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends **approval** of the following variances/special exception:

- § 411.3 (One enclosure required, three enclosures proposed);
- § 772.1 Lot Coverage (80% permitted, 0% existing, 88% proposed); and
- § 774.1 Rear Yard (15 ft. required, 0 ft. proposed).¹

II. LOCATION AND SITE DESCRIPTION

Address	1932 9 th Street, NW
Legal Description	Square 361, Lot 134
Ward	1
Lot Characteristics	Square 361 is bounded on the east by 9th Street, to the north by U Street, to the south by T Street, and to the west by Vermont Avenue. 9-½ Street, a 30 ft. wide public alley, runs north/south, but does not bisect the square for its entire length. The lot fronts on both 9 th Street and an alley named 9-½ Street. The lot is currently vacant, but has historically been used as a parking lot. The lot is rectangular in shape and is 36 feet wide and is 151 ft. in depth. The lot area is 5,436 sf.
Zoning	ARTS/C-2-B ARTS: Uptown Arts Mixed-use Overlay District C-2-B: High density mixed-use and residential
Existing Development	The lot is currently vacant and is used as a parking lot.
Historic District	Greater U Street Historic District

¹ OP notes that although the applicant requests relief from § 774.7(b), the applicant requires relief from § 774.1, which provides the minimum depth for rear yards located in commercial districts. § 774.7(b) provides the process by which the rear yard should be measured, and states that where a lot upon which a building or other structure abuts an alley, a minimum 15 ft. above a 20 ft. horizontal plane is required, as measured from the rear lot line.



Adjacent Properties	The Property abuts commercial and residential uses. Surrounding uses along 9 th Street include 1-2 story commercial structures, which are permitted in this zone. Surrounding uses along 9-1/2 Street largely include residential row dwellings.
Surrounding Neighborhood Character	The neighborhood has a mix of uses. The surrounding properties are comprised primarily of row structures converted for low-density commercial uses. In addition, there are several residential row dwellings in the area. A 70 ft. tall mixed-use structure with 157 units (BZA 18397) was approved by the BZA across the street (800 Florida Avenue NW). Nearby moderate scale commercial corridors include stretches of Florida Avenue and 7th Street NW. Two metro stations are located within close proximity.

III. APPLICATION IN BRIEF

The applicant proposes the construction of an 18,020 sf., four-story, mixed-use structure on a vacant lot. The proposed structure fronting on 9th Street would accommodate a mix of nine market-rate dwelling units and artist living spaces on the upper floors and retail/service uses predominantly in the cellar and first floor space. The project would include a new three-story portion fronting on the alley, connected to the portion fronting on 9th Street by a covered breezeway so that it is considered for zoning purposes a single structure. After consultation with the Historic Preservation Review Board (HPRB), the applicant revised the initial design by eliminating a fifth floor living space and increasing the footprint of the building in the rear. The proposed lot occupancy would be 88%; the remainder of the lot would be comprised of a closed court. The proposal would not be in compliance with lot occupancy, rear yard setback, or roof structure requirements.

IV. ZONING REQUIREMENTS and REQUESTED RELIEF

The applicant seeks a variance from § 772.1 Lot Occupancy, which would allow the proposed structure to be 8% in excess of the permitted lot occupancy for the C-2-B zone. The applicant also requires a variance from § 774.1 Rear Yard, which would allow the construction of the building face-on-line for its vertical height at the rear without setting back a minimum 15 ft. above a 20 ft. horizontal plane, as measured from the rear lot line. In addition, the applicant seeks a special exception from § 411.3 Roof Structures, because the proposal provides three roof structures instead of the required single roof structure.

ARTS/C-2-B Zone	Regulation	Existing	Proposed	Relief
Roof Structures § 411	One enclosure	NA	Three enclosures	Relief required
Height § 770	65 ft. max	NA	48 ft.	None required
Floor Area Ratio § 771	4.5	NA	2.89	None required
Lot Occupancy § 772	80% max.	0%	88%	Relief required
Rear Yard § 774	15 ft. min.	NA	0 ft.	Relief required
Side Yard § 775	NA	NA	NA	None required
Court (closed) § 776	16.512 ft.	NA	16.512 ft.	None required

V. IMAGES AND MAPS

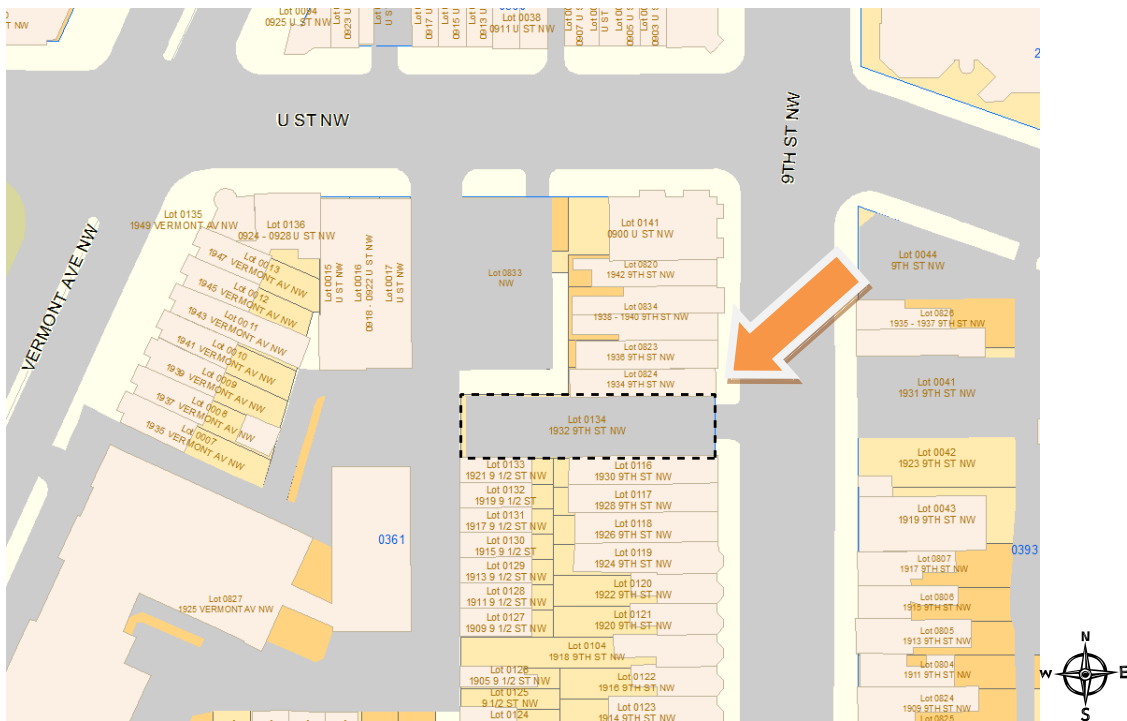


Figure 1: Subject Property



Figure 2: Subject Property

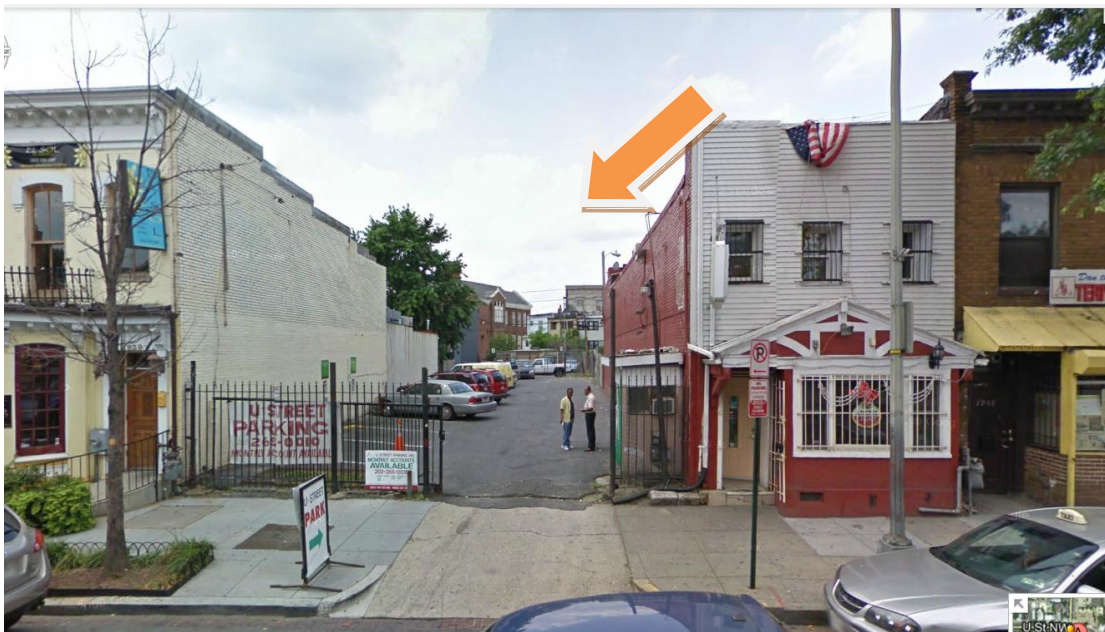


Figure 3: Subject Property

VI. OFFICE OF PLANNING ANALYSIS

a. Variance Relief from § 772.1 (Lot Coverage), § 774.1 (Rear Yard)

i. Exceptional Situation Resulting in a Practical Difficulty

The site is impacted by a confluence of factors:

- **Location of Subject Lot**

The more restrictive height limitation imposed by HPRB relative to the zoning regulations (48 feet as opposed to 65 feet permitted in the C-2-B zone), combined with the applicant's effort to ensure the continuous uniformity of the street frontage within the historic district, results in greater lot occupancy and a smaller rear yard than the zoning regulations allow.

Although the subject lot is an 'interior lot,' it exhibits the characteristics of a 'through lot,' and in this respect is unique within Square 361. The subject lot is located between 9th Street and 9½ Street, an alley which includes residentially developed lots, and is abutted by ten lots with row dwellings which solely front on 9-½ Street. In an effort to continue the existing streetwalls on 9th and 9-½ Streets, (as well as adhere to height limitations required by the Historic Preservation Review Board (HPRB) in excess of those required by the C-2-B zone), the applicant's proposed design results in an elongated structure. The proposed structure would be consistent within its neighborhood context and with the C-2-B zone by including frontage on both 9th and 9-½ Street. In addition, the lot has limited alley access, and the lot is too small for underground parking, so the need to provide parking in the center of the lot also presents design constraints.

- **Lot Dimensions**

The property's narrow width of 36 feet and depth of 151 feet combine to create practical difficulties for the applicant. § 3203.3 requires that only one building shall be located on a single lot of record. The applicant attempted to meet this requirement by proposing a single elongated structure fronting on 9th and 9½ Streets and connected by a closed breezeway. The width of the proposed closed court adheres to the requirements of § 776 Courts while still accommodating required parking.

The fourth floor would be set back six feet from the front façade along 9th Street. Lot occupancy provided by the fourth floor would be 55%, which is a conforming amount and less than the 88% proposed for floors 1-3.

The application also states that Lot 134 demonstrates an extraordinary condition in that it is the largest unimproved lot in its square, although it is not clear how the large size of the subject lot constitutes a practical difficulty requiring excessive lot occupancy or a deficiency from rear yard requirements. Nevertheless, the lot exhibits other unique circumstances resulting in a practical difficulty.

ii. No Substantial Detriment to the Public Good

The construction of the proposed project would not result in a substantial detriment to the public good. The proposal would improve a property which has been vacant for several decades with a building which is in scale and in character with the streetscape.

The proposed development would be consistent with the character of the U Street area and its immediate neighbors. Maintaining the street walls along 9th and 9-½ Streets would also be consistent with the C-2-B zone and the ARTS Overlay. The fourth story would be recessed and designed to be a background element in the streetscape.

iii. No Substantial Harm to the Zoning Regulations

The requested variances would not cause substantial harm to the Zoning Regulations and Map. The proposed project would establish uses which are a matter of right for the ARTS/C-2-B zone. According to the applicant's proposal, at least three of the nine proposed dwelling units are intended to serve as artist living and work space units, a use which is consistent with the Arts Overlay District. In addition, retail space along 9th Street is consistent with the C-2-B zone.

b. Special Exception Relief from § 411.3

§ 411.3 requires that all roof or penthouse structures be placed within one enclosure when located on the same roof level of a building. The applicant revised an earlier penthouse structure design per recommendation from HPRB, which concluded that one structure would result in a monolithic structure inconsistent with the character and scale of the neighboring buildings. According to the applicant, the proposed stairway enclosures would be intended to serve the top story units only and to allow access to the recreational roof decks. They would have a height of approximately 8½ feet above the roof. The third structure would be an elevator overrun that would have a height of approximately 5 ft. above the roof.

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

The proposed relief will be in harmony with the intent of the Zoning Regulations to shield and/or minimize from view the equipment and enclosures.

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

The use of neighboring property should not be adversely affected. The proposal should not impact light or air. According to the elevations provided by the applicant,

the rooftop structures would be set back from 9th Street and should be minimally visible from that street.

VII. COMMUNITY COMMENTS

ANC1B voted unanimously to support the project at its regularly scheduled meeting on August 6, 2009. To date, OP has not received letters from the neighbors.

VIII. HPRB APPROVAL

HPRB approved the proposed development at its meeting on December 15, 2011.