



**MEMORANDUM**

**TO:** District of Columbia Board of Zoning Adjustment  
**FROM:** Matt Jesick, Case Manager  
*JL* Joel Lawson, Associate Director Development Review  
**DATE:** June 30, 2015  
**SUBJECT:** BZA #19032 – 1152 4<sup>th</sup> Street, NE

**I. RECOMMENDATION**

With regard to this proposal to expand an existing single family dwelling and permit an already existing deck, the Office of Planning (OP) **recommends approval** of the following relief:

- § 403 Lot Occupancy (81% w/o deck; 95.8% w/ deck (deck is existing));
- § 404 Rear Yard (9’5” w/o deck; 0’ w/ deck (deck is existing));
- § 2001.3 Additions to non-conforming structures

Requirement	Proposal
• Structure must conform to lot occupancy	• Structure does not conform to lot occupancy
• Addition must conform to zoning requirements	• Third floor would not meet rear yard requirement
• Addition must not extend an existing non-conformity	• Deck would reduce already non-conforming rear yard and increase already non-conforming lot occupancy

**II. LOCATION AND SITE DESCRIPTION**

Address	1152 4 <sup>th</sup> Street, NE
Legal Description	Square 773, Lot 61
Zoning	R-4, moderate density rowhouses
Ward and ANC	6, 6C
Historic District	None
Lot Characteristics and Existing Development	The property is a rectangular rowhouse lot, 18’ x ~55’. The existing rowhouse structure has two stories and a cellar, and an existing deck off the first floor. There is an alley at the rear.
Adjacent Properties and Neighborhood Character	Nearly identical rowhouses adjacent; Neighborhood is mostly rowhouses with some light industrial in the block to the north.

**III. PROJECT DESCRIPTION IN BRIEF**

The applicant seeks zoning relief in order to construct a third floor addition, and to permit an already existing deck.



#### IV. ZONING REQUIREMENTS AND REQUESTED RELIEF

The site is zoned R-4 (Single family or flat rowhouses). In order to develop as proposed, the application seeks zoning relief as noted in the table below.

Item	Requirement	Existing	Proposed	Relief
§ 400 Height	40', 3 stories	30.1', 2 stories	33.65', 3 stories	Conforming
§ 401 Lot Area	1,800 sf	987.39 sf	No change	<b>Requested</b> (Existing non-conforming)
§ 401 Lot Width	18'	18'	No change	Conforming
§ 403 Lot Occupancy	60%	81% w/o deck 98% w/ deck	No change on lower levels Third floor = 49.7%	<b>Requested</b>
§ 404 Rear Yard	20'	9'5" w/o deck 0' w/ deck	No change on lower levels ~16'6" at third floor	<b>Special Exception Requested / Variance Required</b>
§ 405 Side Yard	None required	None	No change	Conforming
§ 2001.3 Non-conforming structures	Must conform to lot occ.; Addition must conform; Addition must not extend a non-conformity.	Pre-deck building does not conform to lot occ.	Deck does not conform to Rear Yard; Deck extends existing non-conf. lot occ. 3 <sup>rd</sup> floor does not conform to rear yard.	<b>Requested</b>

The application requests relief from Lot Area, but the Zoning Administrator has previously determined that zoning applications for existing structures on existing non-conforming lots do not need to seek relief for lot area or lot width. The application also requests special exception relief for rear yard, but because the structure is over 70% lot occupancy, special exceptions pursuant to § 223 are not possible, and a variance is required.

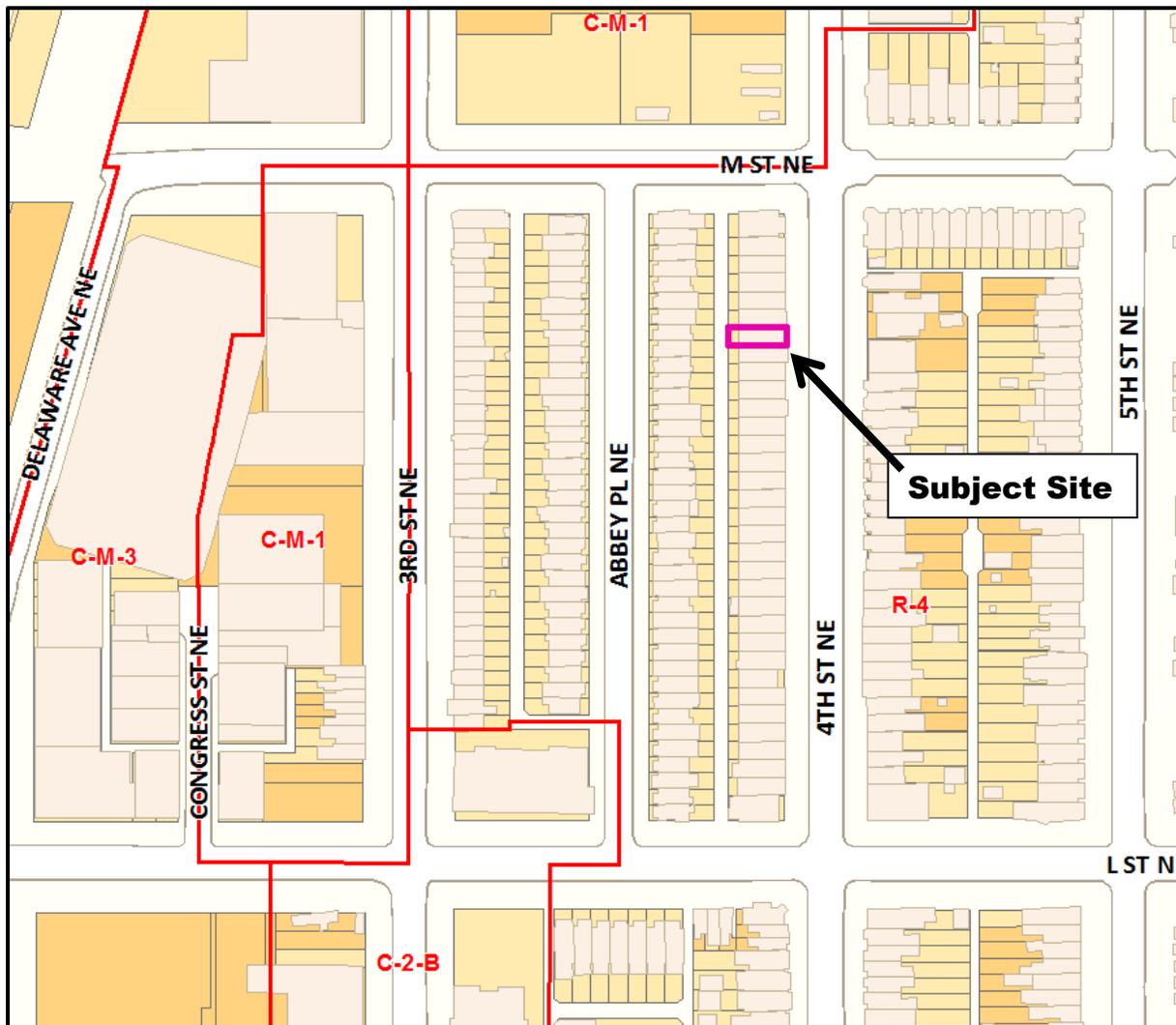
#### V. ANALYSIS

In order to be granted a variance, the applicant must show that they meet the three part test described in § 3103.

##### 1. Exceptional Situation Resulting in a Practical Difficulty

The subject property exhibits an exceptional condition in that it is unusually small compared to many rowhouse lots in the District. At 18 feet wide, the lot meets the width requirement for R-4.

And with that width, a lot that would conform for lot area would be 100 feet deep. But in this case the lot is only about half that depth at 55 feet. Similarly, a conforming lot occupancy of 60% on an 1,800 square foot lot would equal 1,080 square feet, or 93 square feet larger than the entire lot in the subject case. In other words, the entire building area proposed with this application is less than a matter-of-right lot occupancy on a conforming-sized lot. The square between 3<sup>rd</sup> and 4<sup>th</sup> Street was divided in the past by an “alley street”, known as Abbey Place. Alley streets cut the original squares in half, so that instead of two rows of lots – in this instance one facing 3<sup>rd</sup> Street and one facing 4<sup>th</sup> – there are four rows of lots, here including rowhouses facing Abbey Place. The result is very shallow lots. See the vicinity map below.



The exceptional condition results in a practical difficulty for the applicant in that no useable outdoor space could be created on a deck without violating rear yard or lot occupancy regulations. And even the proposed vertical addition that conforms to lot occupancy would not meet rear yard requirements, because the existing house is already so close to the rear property line.

## **2. No Substantial Detriment to the Public Good**

Permitting the existing deck to remain would not be likely to impact the public good. The deck is similar to the many other decks in the alley, and less visually obvious than some others that are enclosed with fences. The application states that there had been a deck there when the current owner bought the house, but that it was unstable and was torn down and replaced. The present deck does not impact light or air available to adjacent properties, and the level of privacy for the owners of the deck and their neighbors is what is expected in such a dense urban neighborhood.

Granting rear yard relief for the third floor would not be likely to impact the public good. The proposed third floor has been designed to be almost invisible from 4<sup>th</sup> Street through the use of a gently sloping roof line behind the existing peaked attic space. This technique would result in a building height that is only about 3.5 feet taller than existing, and would push the occupiable portion of the third floor toward the rear of the structure. And even then the third floor would not have as deep a footprint as the floor below, stopping several feet short of the rear wall of the second floor. The third floor would conform to lot occupancy requirements. Please refer to Sheet A3.1 in Exhibit 7 for a building section. The design, therefore, minimizes the visual impact to the public where it is most important, at the front of the house, and also steps back from the rear building wall at the back of the house. There should be no or minimal impact to light, air and privacy for nearby properties.

## **3. No Substantial Harm to the Zoning Regulations**

The Zoning Regulations generally support the maintenance of open space on the lot through lot occupancy and rear yard limits. However, in this case, there is not enough room for a meaningful back yard, and what space exists is used for parking and trash bins. The intent of the Regulations would be better realized through the creation of useable outdoor space in the form of a deck. This utilization could also help further one of the goals of the R-4 zone, stabilization of one-family dwellings (§ 330.2), as in the present day families tend to expect some amount of outdoor space.

## **VI. COMMUNITY COMMENTS**

The ANC voted to support the application. As of this writing OP has received no comments regarding the application.