

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Elisa Vitale, Case Manager
/s/ Joel Lawson, Associate Director Development Review

DATE: March 3, 2017

SUBJECT: BZA Case No. 19434 1361 Oak Street NW – Request for special exception and variance relief for construction of a rear deck and steps and conversion to a multi-family apartment building.

I. RECOMMENDATION

The Office of Planning (OP) recommends **approval** of the following:

- Special exception relief pursuant to Subtitle E § 5201:
 - E § 304 Lot Occupancy (50% existing, 60% permitted, 60.4% proposed); and
 - E § 306 Rear Yard (20 feet required, 16 feet proposed).

The application was self-certified and the requested relief was based on a November 9, 2016 referral memorandum from the Zoning Administrator, which indicated that “*Area variance pursuant to X, §1001.2 to allow a three unit apartment building on a lot that does not have the minimum lot area*” is also required.¹ The Applicant indicates that they are not pursuing a conversion and do not intend to use the property as a three-unit apartment building. As such OP has not provided analysis of this relief, but OP would not support either:

- Special exception relief pursuant to Subtitle U § 320 to permit conversion to a three-unit apartment building.
- Area variance pursuant to Subtitle X § 1001.2 to permit a three-unit apartment building on a lot that does not have the minimum required lot area (2,700 square feet required, 1,980 square feet proposed).

OP notes that parking relief may also be required, although it was not referenced in the Zoning Administrator referral memorandum.

II. LOCATION AND SITE DESCRIPTION

Applicant	Nathaniel Robb, property owner
Address	1361 Oak Street NW
Legal Description	Square 2835, Lot 73
Ward / ANC	1, 1A

¹ See Exhibit 4, entered to the record on December 12, 2016.

Zone	RF-1 – detached, attached, semi-detached, single-family dwellings and flats.
Historic District or Resource	None.
Lot Characteristics	Rectangular lot measuring 24 feet in width and 82.5 feet in depth. The lot is bounded by a 15-foot improved public alley to the north, Oak Street NW to the south, and adjoining lots to the east and west.
Existing Development	The property is improved with an existing three-story building.
Adjacent Properties	The adjacent properties to the east and west at 1363 and 1359 Oak Street NW are also improved with residential row dwellings.
Surrounding Neighborhood Character	The surrounding neighborhood is residential in character. To the west, is the 14 th Street commercial corridor.
Proposed Development	The original home at the property was lost to a fire. The owners rebuilt and required zoning relief was identified as the Applicant worked through the certificate of occupancy process. The Applicant had constructed a rear deck and stairs that encroached on the required rear yard.

III. ZONING REQUIREMENTS AND RELIEF REQUESTED

RF-1 Zone	Regulation	Existing ²	Proposed	Relief
Height (ft.) E § 303	35 ft. max./3 stories	3+ basement	3+ basement	None required
Lot Width (ft.) E § 201	18 ft. min.	24 ft.	24 ft.	None required
Lot Area (sq. ft.) E § 201	1,800 sq. ft. min. 2,700 sq. ft. min. for 3 units	1,980 sq. ft.	1,980 sq. ft.	Not requested or required for < 3 units
Lot Occupancy E § 304	60% max.	50%	60.4%	Requested 0.4%
Rear Yard (ft.) E § 306	20 ft. min.	16 ft.	16 ft.	Requested 4 ft.
Side Yard (ft.) E § 307	None required, but 5 ft. min. if provided	Not applicable	Not applicable	None required

IV. OP ANALYSIS

Subtitle E Chapter 5201 ADDITION TO A BUILDING OR ACCESSORY STRUCTURE

5201.1 The Board of Zoning Adjustment may approve as a special exception in the R zones relief from the following development standards of this subtitle, subject to the provisions of this section and the general special exception criteria at Subtitle X, Chapter 9:

- (a) Lot occupancy;*
- (b) Yards;*
- (c) Courts;*
- (d) Minimum lot dimensions;*

² Information provided by the Applicant. See Exhibit 3.

(e) Pervious surface; and

(f) The limitations on enlargements or additions to nonconforming structures as set forth in Subtitle C § 202.2.

The applicant is requesting relief from the lot occupancy and rear yard provisions.

5201.2 Special exception relief under this section is applicable only to the following:

(a) An addition to a residential building;

(b) A new or enlarged accessory structure that is accessory to such a building; or

(c) A reduction in the minimum setback requirements of an alley lot.

The Applicant has constructed a rear deck and stairs and is requesting relief from the lot occupancy and rear yard provisions.

5201.3 An applicant for special exception under this section shall demonstrate that the proposed addition 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 deck and stairs, which have been constructed, should not unduly affect the light and air available to neighboring properties. The deck is not covered and features an open-style railing at the perimeter.

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

The deck and stairs should not unduly compromise the privacy of use and enjoyment of neighboring properties. The deck allows some additional view angles toward adjacent properties, but not more than might be expected in a relatively dense urban neighborhood.

(c) The addition or accessory structure, together with the original 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 subject street frontage;

The deck and stairs are not visible from a public street, but are visible from the alley. The deck and stairs should not substantially visually intrude on the character, scale, and pattern of houses in the 1300 block of Oak Street NW. The square is dense and features a variety of styles, including detached garages, open rear porches, covered rear porches, and enclosed rear additions. The deck material is not out of character with surrounding houses.

(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; and

The applicant has submitted plans, elevations and photographs that illustrate the deck and its surroundings.

(e) The Board of Zoning Adjustment may approve lot occupancy of all new and existing structures on the lot up to a maximum of seventy percent (70%).

The lot occupancy with the proposed addition would be 60.4%.

5201.4 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.

No special treatment or conditions are recommended.

5201.5 This section may not be used to permit the introduction or expansion of a nonconforming use as a special exception.

The Applicant states they are not pursuing use as a three-unit apartment building and OP would not recommend that the Board approve special exception and variance relief to permit use as a three-unit apartment building.

5201.6 This section shall not be used to permit the introduction or expansion of nonconforming height or number of stories as a special exception.

Approval of the requested lot occupancy and rear yard relief for the deck and stairs would not permit the introduction or expansion of nonconforming height or number of stories as a special exception.

V. COMMENTS OF OTHER DISTRICT AGENCIES

Comments from other District agencies had not been received at the time this report was drafted.

VI. COMMUNITY COMMENTS

Letters in opposition were received from neighbors (Exhibits 30, 31, 33, and 34).

ANC 1A voted 11-0-0 at its regularly scheduled meeting on February 10, 2017 to recommend that the special exception related to lot occupancy and rear yard be granted to permit the rear deck and stairs. ANC 1A also recommended that the variance request for the three-unit building be withdrawn from consideration and that DCRA work with the owners to bring the property into compliance as a 2-unit flat so that a Certificate of Occupancy can be issued. (Exhibit 32)

Attachment: Location Map



Attachment 1: Location Map 1361 Oak Street NW