

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Anne Fothergill, Case Manager
JLS
for Joel Lawson, Associate Director Development Review

DATE: June 9, 2017

SUBJECT: BZA Case 19439 - request for special exception to convert a single family row dwelling to a 3-unit apartment house and construct a three-story addition without the required vehicle parking at 311 P Street, N.W.

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends **approval** of the following special exceptions **subject to the following condition:**

- Subtitle U § 320.2 – to allow the conversion of an existing single family dwelling to a 3 unit apartment house, subject to the conditions that the Applicant will obtain approval of the record lot subdivision such that the property has the required lot area of 2,700 square feet in order for the Applicant to convert the building to a 3-unit apartment house¹
- Subtitle C § 701.5 – to allow relief from the requirement to provide one parking space.

The Applicant has requested that the BZA waive the requirement of 320.2(h) relative to roof top architectural elements and OP has no objections to the waiver.

OP advised the Applicant that they may need to request relief from Subtitle C § 304.5 (See Section V):

Each new lot being created to be used and occupied by an apartment house shall have a street frontage measured along the street lot line a distance of not less than thirty feet (30 ft.).

OP advised the Applicant that the proposed rooftop parapet may require design changes to be considered a parapet by DCRA (see Section IV).

II. BACKGROUND

The Applicant had previously submitted applications to the BZA for two adjoining tax lots – the subject property for this application, #19439, and the adjacent tax lot which was the subject of case #19440. OP had initially recommended denial of both of these applications and the Applicant has withdrawn Case # 19440 and revised this application. The Applicant has responded to a number of OP's concerns about the previous design including reducing the number of materials, changing the façade material from concrete block, and adding windows on the west side elevation. The Applicant has stated their intention to subdivide the subject lot to create a new record lot so that the property will have the required minimum lot area for three units if the BZA approves the proposed conversion. The Applicant also added a request for parking relief that was not part of the initial application. The Applicant has stated that they will not develop the remaining adjacent tax lot.

¹ OP notes that the subdivision will create a new record lot for the proposed apartment house but will also leave a tax lot that is non-conforming to lot area. As a non-conforming tax lot, after the subdivision, the tax lot will not be developable.

III. LOCATION AND SITE DESCRIPTION

Address	311 P Street, N.W.
Legal Description	Square 0521, Lot 0834
Ward	5
Lot Characteristics	The subject property is a 2,685 SF rectangular tax lot; the Applicant proposes to subdivide the lot so it will have 2,700 square feet.
Zoning	RF-1
Existing Development	Residential single family dwelling on an essentially rectangular tax lot
Historic District	N/A
Adjacent Properties	The adjacent properties are residential apartment buildings and row houses with flats
Surrounding Neighborhood Character	The surrounding neighborhood is primarily residential with some government, institutional, recreational and school uses.

IV. PROJECT DESCRIPTION IN BRIEF

This application is for the conversion of an existing single family dwelling to a 3-unit apartment house in the RF-1 zone. The Applicant proposes to remove a portion of the existing two-story building on the east side and to construct a three-story addition with a roof deck. The proposed materials for the addition are brick, standing seam metal siding, and fiber cement panels. There are no parking spaces proposed for the three units. The proposed development complies with requirements for height, number of stories, and lot occupancy and requires a special exception for the conversion to three units and for relief from the parking requirements related to the increase in number of residential units.

The proposed design shows a four foot (4 ft.) parapet that is set back a few feet from the front façade and is a different siding material and color than the third story of the addition. OP informed the Applicant that the Zoning Administrator's office had advised that a parapet would need to be flush with the façade as an extension of that façade wall. Since the proposed parapet would serve as a guard rail for the roof deck, OP suggested to the Applicant that they consider a change to the design and install a more transparent railing that would comply with the setback requirements. The building design shows a front and west side parapet, a west side railing, and an east side brick party wall around the sides of the proposed roof deck.

If the BZA approves the Special Exception to allow the conversion, the Applicant has stated they will complete a record lot subdivision with an adjacent tax lot to increase the subject property to a lot area of 2,700 square feet, which would be the minimum required lot area for three units in the RF-1 zone. The Applicant has stated that they do not plan to propose any development of the adjoining tax lot.

**OP is recommending a condition of approval that the conversion only be allowed if the property has the required 2,700 square feet of lot area.

*** The subject property width is 26.85 feet and OP advised the Applicant that they might need to request relief from Subtitle C § 304.5 if a 30 foot lot width is required for the subdivision of the new lot (regulation below):

Each new lot being created to be used and occupied by an apartment house shall have a street frontage measured along the street lot line a distance of not less than thirty feet (30 ft.).

VI. OFFICE OF PLANNING ANALYSIS

Special Exception Relief

a. Conversion of an existing residential single family dwelling to a 3 unit apartment house

Special Exception Relief from Subtitle U § 320.2:

320.2 Conversion of an existing residential building existing prior to May 12, 1958, to an apartment house shall be permitted as a special exception in an RF-1, RF-2, or RF-3 zone if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the following conditions:

- (a) The maximum height of the residential building and any additions thereto shall not exceed thirty-five feet (35 ft.), except that the Board of Zoning Adjustment may grant a special exception from this limit to a maximum height of forty feet (40 ft.) provided the additional five feet (5 ft.) is consistent with Subtitle U §§ 320.2(f) through 320.2(i);*

The Applicant has proposed a height of 35 feet which is the maximum allowable height for this zone.

- (b) The fourth (4th) dwelling unit and every additional even number dwelling unit thereafter shall be subject to the requirements of Subtitle C, Chapter 10, Inclusionary Zoning, including the set aside requirement set forth at Subtitle C § 1003.6;*

The Applicant is proposing three units and IZ would not be applicable.

- (c) There must be an existing residential building on the property at the time of filing an application for a building permit;*

The existing building on the subject property is residential.

- (d) There shall be a minimum of nine hundred square feet (900 sq. ft.) of land area per dwelling unit;*

The lot area of the subject property is currently 2,685 square feet and the regulations require at least 900 square feet of land area for each of the proposed three dwelling units, or 2,700 square feet. The Applicant has stated that if they get the BZA approval they will do a record lot subdivision with an abutting property on Third Street that they also own in order to amass 2,700 square feet and meet the lot area requirement. OP recommends a condition of approval that this subdivision must be completed prior to the issuance of a building permit for the conversion.

- (e) An addition shall not extend further than ten feet (10 ft.) past the furthest rear wall of any principal residential building on an adjacent property;*

The Applicant is proposing an addition extending 8 feet-8 inches past the furthest rear wall of the adjacent property to the east. The adjacent property to the west is a corner property that fronts on Fourth Street.

- (f) *Any addition, including a roof structure or penthouse, shall not block or impede the functioning of a chimney or other external vent compliant with any District of Columbia municipal code on an adjacent property. A chimney or other external vent must be existing and operative at the date of the building permit application for the addition;*

The proposal would not block or impede any known chimneys or vents.

- (g) *Any addition, including a roof structure or penthouse, shall not significantly interfere with the operation of an existing solar energy system of at least 2kW on an adjacent property unless agreed to by the owner of the adjacent solar energy system. For the purposes of this paragraph the following quoted phrases shall have the associated meaning:*

- (1) *“Significantly interfere” shall mean an impact caused solely by the addition that decreases the energy produced by the adjacent solar energy system by more than five percent (5%) on an annual basis, as demonstrated by a comparative solar shading study acceptable to the Zoning Administrator; and*

- (2) *“Existing solar energy system” shall mean a solar energy system that is, at the time the application for the building permit for the adjacent addition is officially accepted as complete by the Department of Consumer and Regulatory Affairs or an application for zoning relief or approval for the adjacent addition is officially accepted as complete by the Office of Zoning, either:*

(A) Legally permitted, installed, and operating; or

(B) Authorized by an issued permit; provided that the permitted solar energy system is operative within six (6) months after the issuance of the solar energy system permit not including grid interconnection delays caused solely by a utility company connecting to the solar energy system;

The proposal would not interfere with any known solar energy systems.

- (h) *A roof top architectural element original to the house such as cornices, porch roofs, a turret, tower, or dormers shall not be removed or significantly altered, including shifting its location, changing its shape or increasing its height, elevation, or size. For interior lots, not including through lots, the roof top architectural elements shall not include identified roof top architectural elements facing the structure’s rear lot line. For all other lots, the roof top architectural elements shall include identified rooftop architectural elements on all sides of the structure;*

The Applicant proposes to remove a 10 foot-11 inch wide portion of the east side of the existing building and requests a waiver from this condition requiring the retention of the entire cornice of the building. OP encouraged the Applicant to retain the entire front façade of the building and to construct the three-story addition behind the two-story block. However, the Applicant stated that the east side section of the building was constructed at a later date than the original western massing and was poorly constructed. The Applicant cites structural and settlement problems in the eastern portion and the need to extensively repair or rebuild this section in order to do the proposed renovation and addition. The Applicant proposes to retain the cornice of the original 15 foot-11 inch block and the proposed addition would be set back to allow that original massing to read clearly along the front and west sides. Subject

to the Applicant providing evidence of poor construction at the public hearing, OP has no objection to this request.

- (i) *Any addition shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:*
 - (1) *The light and air available to neighboring properties shall not be unduly affected;*
 - (2) *The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;*
and
 - (3) *The conversion and any associated additions, 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 or alley;*

The light and air available to the neighboring properties should not be unduly affected by the proposed expansion of this building. The proposed addition is large in terms of the existing building's two-story massing, but the proposed lot occupancy and height would be within the maximum amount allowed in this zone. The adjacent buildings on both sides are three stories tall and there would be a separation between the buildings. There is a side yard along the adjacent building to the east (305 P Street, NW) and the proposed rear addition would be set back on the west side providing an open court between that side of the new addition and the rear yard of the abutting properties which face 4th Street NW.

The privacy of neighboring properties should not be unduly compromised by the proposed addition. The adjacent building to the east is a three-story pre-1958 apartment building. To the west are two recently-constructed three-story buildings that front onto Fourth Street and their rear yards abut the side yard of the subject property with a court between them. On the east side of the building there are no existing windows and none are proposed for the addition. The proposed addition extends eight feet eight inches beyond the rear wall of the adjacent building to the east.

The conversion and massing of a three-story addition to this building should not visually intrude upon the character, scale and pattern of other buildings along the street. The subject block has three-story buildings, including the two adjacent buildings to the east and west, and new construction of modern design.

The Applicant has stated they will provide adequate tree protection during construction and OP requested that additional information be provided about the size, condition, and proposed protection of trees in the vicinity.

- (j) *In demonstrating compliance with Subtitle U § 320.2(i) the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the conversion and any associated addition to adjacent buildings and views from public ways;*

The Applicant has provided adequate plans, photographs, and sections.

- (k) *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 or nearby properties, or to maintain the general character of a block;*
- (l) *The Board of Zoning Adjustment may modify or waive not more than three (3) of the requirements specified in Subtitle U §§ 320.2(e) through § 320.2(h) provided, that any modification or waiver granted pursuant to this section shall not be in conflict with Subtitle U § 320.2(i); and*

The Applicant has requested that the BZA waive the requirement of 320.2(h) and OP has no objections to the waiver.

b. Parking requirements

Special Exception Relief from Subtitle C § 701.5 pursuant to C § 703.2:

703.2 The Board of Zoning Adjustment may grant a full or partial reduction in number of required parking spaces, subject to the general special exception requirements of Subtitle X, and the applicant's demonstration of at least one (1) of the following:

- (a) Due to the physical constraints of the property, the required parking spaces cannot be provided either on the lot or within six hundred feet (600 ft.) of the lot in accordance with Subtitle C § 701.8;*
- (b) The use or structure is particularly well served by mass transit, shared vehicle, or bicycle facilities;*
- (c) Land use or transportation characteristics of the neighborhood minimize the need for required parking spaces;*
- (d) Amount of traffic congestion existing or which the parking for the building or structure would reasonably be expected to create in the neighborhood;*
- (e) The nature of the use or structure or the number of residents, employees, guests, customers, or clients who would reasonably be expected to use the proposed building or structure at one time would generate demand for less parking than the minimum parking standards;*
- (f) All or a significant proportion of dwelling units are dedicated as affordable housing units;*
- (g) Quantity of existing public, commercial, or private parking, other than on-street parking, on the property or in the neighborhood, that can reasonably be expected to be available when the building or structure is in use;*
- (h) The property does not have access to an open public alley, resulting in the only means by which a motor vehicle could access the lot is from an improved public street and either:
 - (1) A curb cut permit for the property has been denied by the District Department of Transportation; or*
 - (2) Any driveway that could access an improved public street from the property would violate any regulation of this chapter, of the parking provisions of any other subtitle in the Zoning Regulations, or of Chapters 6 or 11 of Title 24 DCMR;**
- (i) The presence of healthy and mature canopy trees on or directly adjacent to the property; or*
- (j) The nature or location of a historic resource precludes the provision of parking spaces; or providing the required parking would result in significant architectural or structural difficulty in maintaining the integrity and appearance of the historic resource.*

The Applicant has requested relief from providing the one vehicle parking space that is required and OP finds that the application meets criteria (a) of the special exception review criteria: the property does not have access to an alley and the Applicant has stated that they cannot provide one parking space on the subject lot or within 600 feet of the property. Additionally, the structure is in close proximity to mass transit including bus and metrorail lines, and a bikeshare station, which meets criteria (b). Therefore, the Applicant has demonstrated at least one of the criteria of the special exception and OP recommends approval of the special exception.

703.3 Any reduction in the required number of parking spaces shall be only for the amount that the applicant is physically unable to provide, and shall be proportionate to the reduction in parking demand demonstrated by the applicant.

The Applicant has requested relief from providing the one required parking space because they are physically unable to provide it.

703.4 Any request for a reduction in the minimum required parking shall include a transportation demand management plan approved by the District Department of Transportation, the implementation of which shall be a condition of the Board of Zoning Adjustment's approval.

The Applicant has provided a transportation demand management plan (Exhibit 48). DDOT indicated to OP that they are in agreement with the Applicant on the conditions to meet the requirement of a TDM Plan for parking relief and they support the project as stated in their report (Exhibit 34).

VII. COMMENTS OF OTHER DISTRICT AGENCIES

DDOT submitted a report in support of the initial application (Exhibit 34) and has indicated to OP that they support the revised application with the request for parking relief and the Applicant's transportation demand management plan.

VIII. COMMUNITY COMMENTS

In response to the initial submission, the ANC submitted a report in opposition to the project (Exhibit 36). At the time of the staff report, the ANC had not submitted a report in response to the revised application. The Applicant stated that they will provide an informational update to the ANC on June 20, 2017, and the ANC has indicated that they will not be able to vote on the revised application until September 2017.