

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Stephen J. Mordfin, AICP, Case Manager
JL Joel Lawson, Associate Director Development Review
DATE: June 16, 2017
SUBJECT: BZA Case 19514 (1805 Wiltberger Street, N.W.) for variances and special exceptions to permit a third floor addition, penthouse and roof deck

I. OFFICE OF PLANNING RECOMMENDATION

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

- C § 202.2, Enlargement of a Nonconforming Structure; and
- E § 304.1, Lot Occupancy (60 percent permitted, 90 percent existing, 90 percent proposed);

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

- C 1500.4(a), Penthouse Regulations (penthouses not permitted by right, one proposed);
- C § 1502.1, Penthouse Setback (1:1 setback required, none proposed from the northern side wall, 2 feet, 11 inches from the southern side wall).

No changes or alterations are proposed to the existing façade.

II. LOCATION AND SITE DESCRIPTION

Address	1805 Wiltberger Street, N.W.
Applicant	Hector M. Burgos
Legal Description	Square 441, Lot 84
Ward, ANC	Ward 6, ANC 6E
Zone	RF-1
Lot Characteristics	Rectangular lot with no alley access
Existing Development	Two-story row house
Adjacent Properties	Row houses
Surrounding Neighborhood Character	Mixed use, including office, retail and residential
Proposed Development	Third story and rooftop deck with penthouse access

III. ZONING REQUIREMENTS and RELIEF REQUESTED

Zone: RF-1	Regulation	Existing	Proposed	Relief
Height E § 303.1	35-foot max. and 3-stories	2-stories and 25.25 feet	3-stories and 35 feet	None
Lot Width E § 201.1	18-foot min.	12.4 feet	12.4 feet	None
Lot Area E § 201.1	1,800 sq. ft. min.	397 sq. ft.	397 sq. ft.	None
Lot Occupancy E § 304.1	60% max.	90.5%	90.5%	Area Variance
Rear Yard E § 306.1	20-foot min.	3 feet	3 feet	None
Penthouse	Permitted by SE	N/A	Penthouse	Special Exception
Penthouse Height C § 1500.4(a)	10-foot max.	N/A	9-foot, 1-inch	None
Penthouse Setback C § 1502.1	1:1	N/A	Provided from front and back; None from the northern side wall; 2 feet, 11 inches from the southern side wall	Special Exception

IV. OFFICE OF PLANNING ANALYSIS

a. Variance Relief from E § 304.1, Lot Occupancy

i. Exceptional Situation Resulting in a Practical Difficulty

The existing lot, at 397 square feet, is exceptionally small and less than one quarter of the minimum required 1,800 square feet in the RF-1. The subject property was constructed prior to 1958 with a lot occupancy of 90 percent. Because of the small size of the lot, the construction of an addition in conformance with the maximum 60 percent lot occupancy would result in a third floor of approximately 238 square feet, including the walls and the stairwell.

ii. No Substantial Detriment to the Public Good

The applicant proposes to construct a third floor with the same footprint as the first and second floors. The proposed lot occupancy would continue the existing situation, with the same lot occupancy as exists within the entire row of seven row houses that were constructed together.

iii. No Substantial Harm to the Zoning Regulations

The proposal would permit the applicant to expand and modernize the existing dwelling to contemporary standards so as to enable the applicant to continue its use as a one-family row dwelling, a use permitted as a matter-of-right RF-1 zone.

b. Special Exception Relief pursuant to C § 1500.4, Permit Construction of a Penthouse

- 1) Notwithstanding Subtitle C § 1500.3, a penthouse, other than screening for rooftop mechanical equipment or a guard-rail required by Title 12 of the DCMR, D.C. Construction Code for a roof deck, shall not be permitted on the roof of a detached dwelling, semi-detached dwelling, row house or flat in any zone; however, the Board of Zoning Adjustment may approve a penthouse as a special exception under Subtitle X, Chapter 9, provided the penthouse:**

- (a) Is no more than ten feet (10 ft.) in height and contains no more than one (1) story; and**

- (b) Contains only stair or elevator access to the roof, and a maximum of thirty square feet (30 sq. ft.) of storage space ancillary to a rooftop deck.**

The proposed penthouse would be one story and 9 feet, 9 inches in height, less than maximum permitted, and only for a stairwell with no storage space.

- 2) Is the proposal in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps?**

The proposal would permit the construction of a residential penthouse atop a row house for residential use. It would be set back a distance equal to its height from the front and rear. While the applicant has not documented other possible forms of roof access that would not require a penthouse, the subject property is an interior row house and not an end unit, and the penthouse would be minimally visible from the street.

- 3) Would the proposal appear to tend to affect adversely, the use of neighboring property?**

The block on which the subject property is located is improved with a row of seven identically constructed row houses. To date two have been modified; one with a third story addition¹ and the other with a roof top deck and small penthouse structure in 2009² for access. As the majority of the rooftops within this row of houses are unimproved and any impacts of the proposed penthouse would be to uninhabited rooftops, the proposal should not tend to affect adversely neighboring property.

¹ BZA 18907, variance granted 01/27/2015 to lot occupancy to permit a third floor addition.

² Prior to the adoption of the penthouse regulations, so allowed by right.

c. Special Exception Relief pursuant to C § 1502.1(c), Side Penthouse Setbacks

1) Relief to the requirements of Subtitle C §§ 1500.6 – 1500.10 and 1502 may be granted as a special exception by the Board of Zoning Adjustment subject to Subtitle X, Chapter 9 and subject to the following considerations:

(a) The strict application of the requirements of this chapter would result in construction that is unduly restrictive, prohibitively costly, or unreasonable, or is inconsistent with building codes;

Due to the narrowness of the lot, 12.42 feet, the applicant is unable to construct a penthouse at a height of 9 feet, 9 inches and set back a distance equal to its height from both of the side walls of the dwelling. The applicant is proposing to construct the stairwell penthouse over the location of the existing stairwell below, the most reasonable and cost effective location, particularly given the small lot size and width.

(b) The relief requested would result in a better design of the roof structure without appearing to be an extension of the building wall;

This would be the only dwelling within the row of houses with both a third floor and a roof deck, when the majority of the houses in the row have no rooftop additions. The penthouse should not be highly visible from the street, because of the provision of the required setback, or adjacent properties because of a lack of rooftop improvements.

(c) The relief requested would result in a roof structure that is visually less intrusive;

The proposed penthouse would be set back as required from the front and rear walls of the dwelling. Although not set back a distance equal to its height from the sides, its location on the roof of an interior row house minimizes its visibility.

(d) Operating difficulties such as meeting D.C. Construction Code, Title 12 DCMR requirements for roof access and stairwell separation or elevator stack location to achieve reasonable efficiencies in lower floors; size of Subtitle C-114 building lot; or other conditions relating to the building or surrounding area make full compliance unduly restrictive, prohibitively costly or unreasonable;

Not applicable.

(e) Every effort has been made for the housing for mechanical equipment, stairway, and elevator penthouses to be in compliance with the required setbacks; and

The penthouse is designed to provide stairway access to a rooftop deck. Due to the small size of the lot, and the resulting small footprint of the structure, the

applicant is unable to locate a penthouse elsewhere on the lot in compliance with the required side setbacks.

- (f) The intent and purpose of this chapter and this title shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely.**

The recent penthouse provisions are intended to ensure that the visual impacts of any penthouse are minimized. In this case, its placement set well back from the front and rear walls would accomplish this. Light and air should not be impaired by the construction of a penthouse as adjacent lots are not improved with windows or doors facing the proposed penthouse.

2) Is the proposal in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps?

The penthouse regulations are intended, in part, to control the impact of penthouses as viewed from the street. Due to the small lot size the penthouse and the subject lot being an interior lot, the location of the penthouse along the north wall of the structure would neither increase its visibility nor adversely affect the streetscape.

3) Would the proposal appear to tend to affect adversely, the use of neighboring property?

Construction of a penthouse along an interior party wall (north) of this row of houses, and less than required from the southern interior wall of the group of houses, would minimized the impact on neighboring properties, as the adjoining properties have no roof top improvements.

V. COMMENTS OF OTHER DISTRICT AGENCIES

DDOT, in a memorandum dated June 15, 2017, stated no objections to the application (Exhibit 42).

No other comments were received from other District agencies.

VI. COMMUNITY COMMENTS

ANC 6E reviewed the subject application at its regularly scheduled meeting of June 6, 2017, but had not submitted a report to the file as of the date of this report.

Three letters from community residents submitted letters in support (exhibits 39-41).

Attachment: Location Map

