

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

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

DATE: July 14, 2017

SUBJECT: BZA Case 19517 - request for special exception and variance relief to allow a 3-unit apartment house at 943 S Street, N.W.

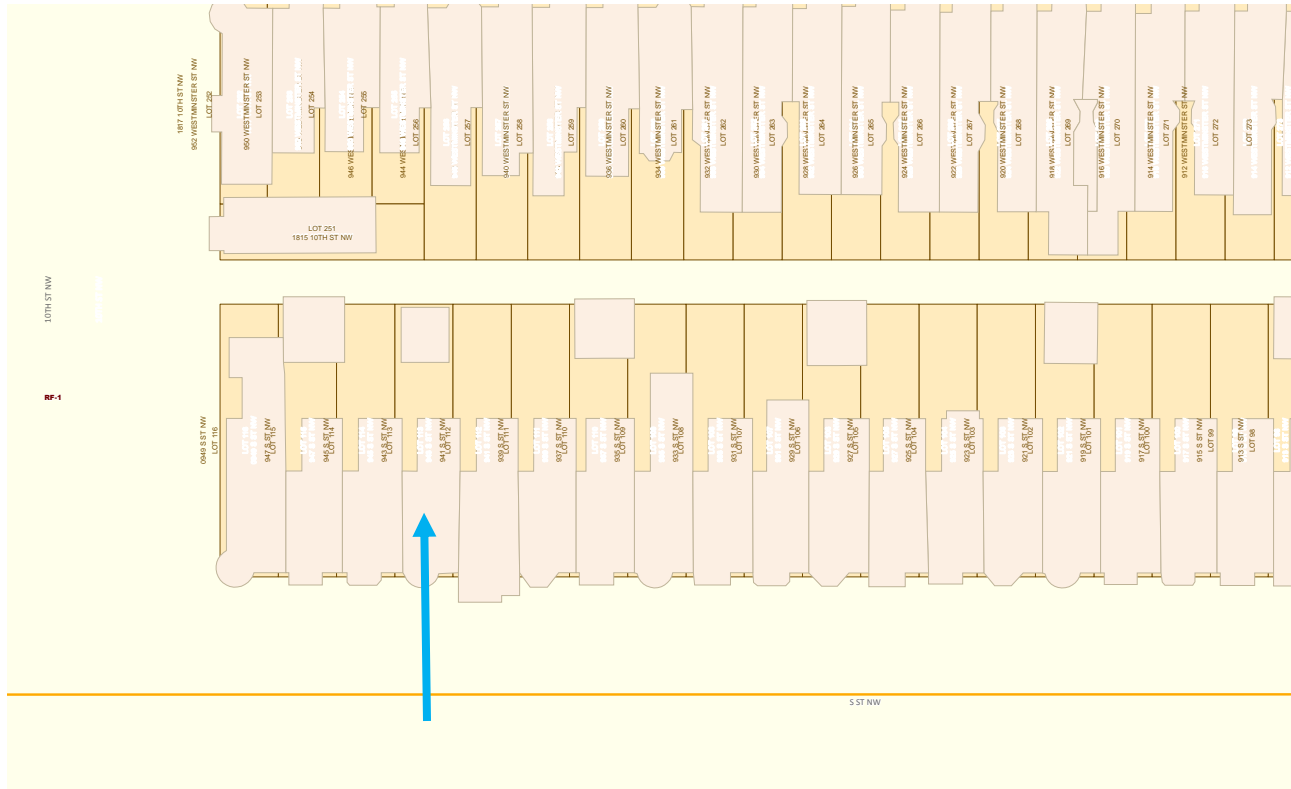
I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends **approval** of the following variance and special exception relief pursuant to Subtitle X Chapters 9 and 10:

- Subtitle U § 320.2 – to allow the conversion of a 3-unit apartment house with less than 900 SF per unit

II. LOCATION AND SITE DESCRIPTION

Address	943 S Street, N.W.
Legal Description	Square 0362, Lot 0113
Ward	1
Lot Characteristics	The subject property is an 1,827 SF rectangular lot
Zoning	RF-1
Existing Development	The building currently has three residential dwelling units but no Certificate of Occupancy for three units. The applicant states that the conversion to three units happened prior to their purchase of the property in 2009. Even then, under the former zoning regulations, BZA relief would have been required for this conversion; OP could find no record of such a request.
Historic District	Greater U Street Historic District
Adjacent Properties	The adjacent properties are residential rowhouses
Surrounding Neighborhood Character	The surrounding neighborhood is primarily residential with some commercial properties in close proximity. OP found only three BZA cases for conversion of a rowhouse to an apartment building on this square – two in the 1970’s and one in 2009.



III. PROJECT DESCRIPTION IN BRIEF

This application is a request for retroactive zoning relief to allow the existing conversion of a rowhouse into a 3-unit apartment house in the RF-1 zone. The building currently has three separate residential dwelling units that are occupied and have been in existence since before the current owners bought the property in 2009; the applicant did not indicate why due diligence at the time of purchase did not bring this non-conformity to light, or indicate when the conversion may have happened (OP assumes it was not constructed as a three unit building). The Applicants propose no changes to the building as part of this application, and there would be no changes to the current conditions of the three units. The Applicants are requesting the zoning relief so that they can get a Certificate of Occupancy; to make the existing situation legal.

IV. ZONING REQUIREMENTS

RF-1	Regulation	Existing	Proposed	Relief
Height	35 feet	35 feet	No change	None required
Lot area	2,700 SF (for 3 units)	1,827 SF	1,827 SF	Relief requested
Lot occupancy	60%	68.71%	No change	Existing non-conformity
Rear yard	20 feet	40.3	No change	None required

V. OFFICE OF PLANNING ANALYSIS

A. Special Exception

Special Exception Relief from Subtitle U § 320.2 - conversion of an existing residential building to a 3 unit apartment house:

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 building is within the maximum height limit of 35 feet 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 Applicants are 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 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 subject property is 1,827 square feet and the Applicants are requesting a variance from this regulation; see Section V.B. of this report.

(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 Applicants do not propose any additions to the building.

(f) Any addition, including a roof structure or penthouse, shall not block or impede the functioning of a chimney or other external vent on an adjacent property required by any municipal code;

The Applicants do not propose any additions to the building.

(g) Any addition, including a roof structure or penthouse, shall not interfere with the operation of an existing or permitted solar energy system on an adjacent property, as evidenced through a shadow or shade study, or other reputable study acceptable to the Board of Zoning Adjustment;

The Applicants do not propose any additions to the building.

(h) A roof top architectural element original to the house such as a turret, tower, or dormers shall not be removed or significantly altered, including changing its shape or increasing its height, elevation, or size;

The Applicants do not propose any changes to the building.

(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 Applicants do not propose any additions to the building.

(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 Applicants have provided adequate plans and photographs.

(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 Applicants have not requested any waivers from these conditions but have requested a variance from the 900 square foot per unit requirement found in Section 320.2(d) (see Section V.B.).

B. Variance

Variance relief from Subtitle U § 320.2(d) - required 900 square feet of land area per dwelling unit in an apartment house:

i. Exceptional Situation Resulting in a Practical Difficulty

The Applicants purchased the subject property in 2009 and at that time, according to the applicant, it already was a three-unit building. The three units have separate entrances and meet egress and code requirements. The Applicants do not propose to make any physical changes to the building. The property does not have the required 900 square feet per unit in land area. If the Applicants were required to convert the building back to a single family dwelling or flat to comply with the RF-1 regulations, they would be faced with substantial renovation and expense, as well as the eviction of at least one of the current residents who may also have lived in the building for some time.

ii. No Substantial Detriment to the Public Good

The Applicants are not proposing any physical changes to the building and all of the current conditions including the number of occupied units would remain exactly the same. Should the requested relief be granted, there would be no new impact on the neighbors in terms of light, air, density, or privacy. As such, the requested relief would not have a substantial detriment to the public good. Numerous neighbors have written letters of support including the adjacent neighbors (Exhibits 11-14).

iii. No Substantial Harm to the Zoning Regulations

The RF-1 zoning regulations permit a conversion to an apartment house by special exception with a condition that ensures that there would be adequate land area (900 square feet) per residential dwelling unit. However, in this specific case, the three-unit apartment house has been in existence for many years, and no adverse impact on nearby residents has been shown. The relief would allow the property owners to acquire a

valid Certificate of Occupancy and be in compliance with those requirements, which is the only reason they have requested the relief.

VI. COMMENTS OF OTHER DISTRICT AGENCIES

At the time of the staff report, no other District agency had submitted comments.

VII. COMMUNITY COMMENTS

The Applicants have provided letters of support from nearby residents (Exhibits 11-14). As of the date of filing this report, the ANC had not submitted a recommendation to the record.