

## **MEMORANDUM**

**TO:** District of Columbia Board of Zoning Adjustment

**FROM:** Stephen J. Mordfin, AICP, Case Manager  
JLS  
for Joel Lawson, Associate Director Development Review

**DATE:** December 8, 2017

**SUBJECT:** BZA Case 19630: Request for special exception relief pursuant to Subtitle D § 5201.1 from Subtitle D § 804.1 to allow a lot occupancy of 34.06 percent.

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### **I. BACKGROUND**

In 2013 the applicants demolished most of their dwelling, proposing to renovate and expand the home, retaining the front porch. The front porch onto which they proposed to construct the expansion was found to be structurally unsound, requiring that it too be razed and resulting in the total demolition of the circa 1930 one-family detached dwelling. A pre-1958 accessory structure in the rear yard was retained.

To rebuild the demolished front porch, which was nonconforming to the Wesley Heights Overlay for front and side yard setback, the applicants applied for and received area variance relief from the BZA, granted pursuant to Order 18659, effective August 24, 2014. Relief was required as the entire 1930 dwelling had been demolished, resulting in DCRA reclassifying the project as new construction and not an expansion and renovation.

Lot occupancy was to be 28.8 percent, less than the maximum 30 percent permitted within the R-1-B and Wesley Heights Overlay, as indicated on Sheet A.0, Site Plan, of the applicant's submission under Exhibit 10 of BZA 18659. Page 5 of the Order, under Findings of Fact, Fact No. 14, the Board found the proposed lot occupancy to be 28.8%, including demolition of the garage.

A new dwelling was built. Lot occupancy, including the accessory structure, is 34.06 percent, more than the maximum 30 percent permitted in the R-15 zone, the new zone classification under ZR16, as the garage was not demolished. An area variance for lot occupancy or removal of a portion of the improvements is necessary to bring the property into conformance. Detailed calculations of the floor area ratio (FAR) should be submitted due to ANC concerns, verifying conformance with Subtitle D Sec. 802.2, Density-Lot Dimensions and Gross Floor Area.

The subject application was filed requesting special exception relief pursuant to D Sec. 5201.1(a) to permit a lot occupancy of 34.06 percent. No other relief was requested.

### **II. OFFICE OF PLANNING RECOMMENDATION**

- The application is self-certified and the Burden of Proof addresses special exception. However, OP has confirmed with the Zoning Administrator that special exception relief is only available for additions to existing structures, not for new construction. Therefore, the

relief for additional lot occupancy should be a variance. The application does not address the standards for a variance so at this time OP cannot make a recommendation.

Address	4540 Lowell Street, N.W.
Applicants	Elodie Goirand and Andreas Xenophontos
Legal Description	Square 1608, Lot 68
Ward, ANC	Ward 3, ANC 3D
Zone	R-15
Lot Characteristics	Rectangular lot with no public alley access. A common driveway is shared with the property to the east.
Existing Development	One family detached dwelling with an accessory structure in the rear yard, including a carriage house with a garage, and vehicular access via a shared drive with the property to the east
Adjacent Properties	One-family detached dwellings
Surrounding Neighborhood Character	Low density residential
Proposed Development	Permit existing development with a lot occupancy of 34.06 to remain. No new construction proposed.

### III. LOCATION AND SITE DESCRIPTION



Location and Zoning Map

#### IV. ZONING REQUIREMENTS and RELIEF REQUESTED

<b>R-15 Zone</b> (Previously WH/R-1-B)	<b>Regulation</b>	<b>Existing</b>	<b>Proposed</b>	<b>Relief</b>
Height D § 803.1	40 feet & 3 stories max.	39.5 feet & 3 stories	39.5 feet & 3 stories	None Required
Lot Width D § 802.1	50-foot min.	50 feet	50 feet	None Required
Lot Area D § 802.1	5,000 sq.ft. min.	7,500 sq.ft.	7,500 sq.ft.	None Required
Lot Occupancy D § 304	30% max.	34.06%	34.06%	<b>Required</b>
Rear Yard D § 806.1	25-foot min.	87.66 feet	87.66 feet	None Required
Floor Area Ratio D § 802.2	5,000 sq.ft. max.	4,949.45 sq.ft.	4,949.45 sq.ft. <sup>1</sup>	None Required
Front Setback D § 805.1	Average of all structures on same side of street in the same block or 13 feet	2 feet, 4 inches	2 feet, 4 inches	None Required <sup>2</sup>
Side Yard D § 807.1 -East -West	8-foot min. 8-foot min.	8 feet 3.7 feet	8 feet 3.7 feet	None Required None Required <sup>3</sup>
Parking C § 702.3	None required for detached SFD if no access to a 10-foot wide public alley	1 space	1 space	None Required

#### V. OP ANALYSIS

Subtitle D Sec. 809.1 permits special exception relief to the development standards of Subtitle D, Chapter 8, including lot occupancy, as follows:

***“Exceptions to the development standards of this chapter shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, and subject to the provisions and limitations of Subtitle D §§ 5201 and 5205.”***

Subtitle D, Section 5201.2 limits special exception applications to the following:

***“Special exception relief under this section is applicable only to the following: (a) An addition to a building with only one (1) principal dwelling unit; or (b) A new or enlarged accessory structure that is accessory to such a building.”***

<sup>1</sup> DCRA requests the applicant submit documentation that application is in conformance with Subtitle D Sec. 802.2.

<sup>2</sup> Pursuant to BZA Order 18659, effective August 24, 2014, the front yard was reduced to 2 feet, 4 inches.

<sup>3</sup> Pursuant to BZA Order 18659, effective August 24, 2014, the west side yard was reduced to 3.7 feet.

The increase in lot occupancy is not from an addition to a principal dwelling unit, as the now existing dwelling unit was found to be new construction by the Board under BZA Order 18659, or from the construction of a new accessory structure, as that structure was found to pre-date the 1958 Zoning Regulations by the Board under the same application. BZA Order 18659 states the following on page 5 of the order:

***“The Applicant’s project was initially considered an addition to the original dwelling; however, because of the degree of demolition ultimately undertaken by the Applicant, the nature of the development changed such that the project was considered new construction.”***

OP finds the subject property not eligible for special exception relief because the increase in lot occupancy is not the result of an addition to the principal dwelling or a new or enlarged accessory structure, but rather from the new construction. Therefore, OP cannot make a recommendation as the application is not eligible for relief pursuant to the provisions of Subtitle D Sec. 5201.1.

## **VI. COMMENTS OF OTHER DISTRICT AGENCIES**

DDOT, in a memorandum dated November 29, 2017, indicated that it had no objection to the application.

No comments were received from other District agencies as of the filing of this report.

## **VII. COMMUNITY COMMENTS**

ANC 3D was scheduled to review the application at its regularly scheduled meeting December 6, 2017.

One letter was submitted to the file in opposition to the application as of the filing of this report.