

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Stephen J. Mordfin, AICP, Case Manager
JL Joel Lawson, Associate Director Development Review
DATE: March 23, 2018

SUBJECT: BZA Case 19710: Request for use variance relief pursuant to Subtitle C § 204.3 and special exception relief pursuant to Subtitle C § 204 to allow for the conversion of a community residential facility (CRF) to an apartment building with a rear building extension of more than 10 feet (404 Newcomb Street, N.W.)

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends **approval** of the following use variances pursuant to:

- C § 204.3, Nonconforming Uses (apartment building not permitted, apartment building proposed); and
- C § 204.1 Nonconforming Uses (extension of the gross floor area of a nonconforming use proposed; extension of the gross floor area of a nonconforming use not permitted).

OP recommends **approval** of the following special exception:

- D § 306.4, Extension of a Rear Wall (maximum 10-foot extension apartment building not permitted, apartment building proposed).

II. LOCATION AND SITE DESCRIPTION

Address	404 Newcomb Street, S.E.
Applicant	404 Newcomb LLC
Legal Description	Square 5996, Lot 48
Ward, ANC	Ward 8, ANC 8C
Zone	R-3
Lot Characteristics	Rectangular lot with rear alley access and a 15-foot deep building restriction line along the Newcomb Street frontage
Existing Development	Two-story semi-detached apartment building with 4 one-bedroom one-bathroom units used as a CRF
Adjacent Properties	North, South, and East: Two-story apartment buildings West: Two-story semi-detached dwelling attached to a four-unit apartment building

Surrounding Neighborhood Character	Mixture of low to moderate residential uses, including one-family detached, triple-attached and row houses and small apartment buildings.
Proposed Development	Rear addition to create four two-bedroom two-bathroom units out of the existing units, including utility rooms

III. ZONING REQUIREMENTS and RELIEF REQUESTED

Zone: R-3	Regulation	Existing	Proposed	Relief
Height D § 303	40-foot max.	21.8 feet	No Change	None Required
Lot Width D § 302	30-foot min.	40 feet	No Change	None Required
Lot Area D § 302	3,000 sq.ft. min.	4,000 sq.ft.	No Change	None Required
Lot Occupancy D § 304	40% max.	30.9%	40%	None Required
Rear Yard D § 306	20-foot min.	46 feet	24.1 feet	None Required
Side Yard D § 307	7.6-foot min. ¹	7.6 feet	7.6 feet	None Required
Parking C § 701.5	1 space per 2 units	None	4 spaces	None Required
Rear Wall D § 306.4	10-foot max. extension	None	14.5 feet	REQUIED
Addition to Nonconforming Bldgs. C § 204.1	Not permitted	--	Rear bldg. addition	REQUIED

IV. OP ANALYSIS

1. Use Variance Relief from C § 204, Nonconforming Use

a. C § 204.3 (g), When an existing nonconforming use has been changed to a conforming or more restrictive use, it shall not be changed back to a nonconforming use or less restrictive use;

1. Exceptional and Undue Hardship Resulting in a Practical Difficulty

The subject property was developed in 1941 as an apartment building with four one-bedroom one-bathroom units, and exists in that configuration today. It was converted to a CRF, a use permitted as a matter of right within the R-3 zone. The new owner of the property does not wish to continue the CRF use. As the interior of the building was not modified from its original layout, it would be an undue hardship on the applicant to have to convert this apartment building into a one or two-family dwelling.

¹ Section D 307.5 permits a building addition to maintain an existing side yard of less than 8 feet, but n less than 5 feet, for a building addition.

2. No Substantial Detriment to the Public Good

The change of use of the building back to an apartment building, despite being converted to a conforming use, should not have a negative effect on the community. Within the immediate surrounding area are other buildings constructed similar to the subject building with four apartments, including the adjacent semi-detached structure to the east and the buildings located directly across street and to south of the subject property.

3. No Substantial Harm to the Zoning Regulations

The proposed conversion of the building back to a four-unit apartment building would return the building to family use within a zone designed to provide for a variety of housing types appropriate for families. The increase in the number of bedrooms within each unit, as proposed by the applicant, would result in four family-sized units.

b. Special Exception Relief from D § 306.4, Extension of a Rear Wall

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 proposed addition would be equal in height to the existing structure and set back 10.75 feet from the east side lot line, more than the existing 7.6-foot side yard, minimizing the impact the proposed addition would have on neighboring properties. Although the proposed addition would extend back more than ten feet beyond the rear wall of either adjoining property, most of it (3 feet, 3.25 inches) would be due to the construction of a utility room enclosure, set back almost 19 feet from the east side lot line and more than ten feet on the west, minimizing impacts on light and air.

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

Privacy of use of adjoining properties should not be unduly affected. Windows on the east side of the addition would be set back further from the common property line to the east than those within the existing structure. No windows would be provided on the west side.

(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 addition would be visible from the public alley, equal in height to the existing structure and improved with fenestration compatible to the remainder of the building, maintaining the existing character, scale and pattern of existing housing along the alley.

(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;

The applicant submitted plans, photographs and elevation drawings to represent the proposed addition.

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.

OP makes no recommendations for special treatment.

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

The applicant has separately requested use variance relief, as described above.

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.

The applicant does not propose the introduction or expansion a nonconforming building height or number of stories.

V. COMMENTS OF OTHER DISTRICT AGENCIES

DDOT, in a memorandum dated March 15, 2018, had no objection to the application. (Exhibit 35)

No comments were received from other District agencies.

VI. COMMUNITY COMMENTS

No comments were submitted to the file by ANC 8C as of the filing of this report.

Attachment: Location Map

