

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Elisa Vitale, Case Manager
JL Joel Lawson, Associate Director Development Review
DATE: March 23, 2018
SUBJECT: BZA Case 19712, 452 Newton Place, NW, Variance from U § 320.2(d) to allow conversion to a three-unit apartment building not meeting the minimum lot area.

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends **denial** of the following:

- § 320.2(d), land area for conversion (minimum of 900 square feet of land area per unit required, 886.67 square feet proposed).

II. LOCATION AND SITE DESCRIPTION

Address	452 Newton Place, NW
Applicant	Sean Hanover, attorney, on behalf of Serhat Akin, owner.
Legal Description	Square 3036, Lot 89
Ward, ANC	Ward 1 / ANC 1A
Zone	RF-1 - The purpose of the RF-1 zone is to allow for detached, attached, semi-detached, single-family dwellings and flats.
Historic District	Not applicable.
Lot Characteristics	The Property is a rectangular, corner lot that measures 28 feet in width and 95 feet in length. The Property is bound by Newton Place, NW to the north; Warder Street, NW to the west; a 15-foot wide improved public alley to the south; and an adjacent rowhouse lot to the east.
Existing Development	The existing Property is improved with a 2-story brick rowhouse with basement.
Adjacent Properties	The adjacent property to the east is improved with a 2-story rowhouse.
Surrounding Neighborhood Character	The surrounding neighborhood is residential in character with Bruce Monroe Elementary School and the Park View Recreation Center to the northwest.

Proposed Development	The Applicant has converted the existing rowhouse to a three-unit apartment building; however, the property does not provide the required 900 square feet of lot area per unit.
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III. ZONING REQUIREMENTS and RELIEF REQUESTED

Zone-	Regulation	Existing	Proposed	Relief
Height (ft.) E § 303	35 ft.	28 ft.	28 ft.	None Required
Lot Width (ft.) E § 201	18 ft.	28 ft.	28 ft.	None Required
Lot Area (sq. ft.) E § 201	1,800 sq. ft. 2,700 sq. ft. for 3-unit conversion	2,660 sq. ft.	2,660 sq. ft.	REQUIRED
Lot Occupancy E § 304	60 %	44%	44%	None Required
Rear Yard (ft.) E § 306	20 ft.	31 ft.	31 ft.	None Required
Side Yard (ft.) E § 307	0 ft.	0 ft.	0 ft.	None Required
Parking C § 701	1 / 2 dwelling units	3 spaces	3 spaces	None Required

IV. OFFICE OF PLANNING ANALYSIS

a. Special Exception Relief from U § 320.2

Subtitle U § 320.2 allows, as a special exception, the conversion of a structure to an apartment building, subject to the following criteria. The Property does not meet the minimum lot area required and would, therefore, require Variance Relief from U § 320.2(d).

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 existing height of the building is 28 feet and the Applicant is not proposing any exterior modifications that would result in an increase in building height.

- (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;*

Not applicable, the Applicant is proposing three units at the Property.

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

There is an existing residential building on the property.

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

The lot area is not sufficient to accommodate three units; 2,700 square feet would be required and the Property contains 2,660 square feet of land area.

- (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 not proposing an addition to the existing building.

- (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 Applicant is not proposing a roof structure or penthouse.

- (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....*

OP has found no evidence of an existing or permitted solar energy system on the adjacent property at 450 Newton Place, NW.

- (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 is not proposing to modify a rooftop architectural element.

- (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:*

The Applicant has not proposed any additions as part of the subject application.

- (1) *The light and air available to neighboring properties shall not be unduly affected;*

Not applicable.

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

Not applicable.

- (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;*

Not applicable.

- (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 application materials include floorplans, elevations 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;*

OP recommends the Applicant work with the Public Space Committee to ensure that improvements in public space comply with all relevant District regulations.

- (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 not requested any modifications or waivers from U §§ 320.2(e)-(h).

- (m) *An apartment house in an RF-1, RF-2 or RF-3 zone, converted from a residential building prior to June 26, 2015, or converted pursuant to Subtitle A §§ 301.9, 301.10, or 301.11 shall be considered a conforming use and structure, but shall not be permitted to expand either structurally or through increasing the number of units, unless approved by the Board of Zoning Adjustment pursuant to Subtitle X, Chapter 9, and this section.*

Not applicable.

b. Variance Relief from U § 320.2(d)

i. Exceptional Situation Resulting in a Practical Difficulty

The Applicant has not demonstrated an exceptional situation resulting in a practical difficulty. The Property could be used as a legally conforming flat. While the property has a history of interaction with the Department of Consumer and Regulatory Affairs (DCRA) (Exhibits 10, 11, 14, 15, and 16), the Applicant's proposed apartment conversion would be in violation of the Certificate of Occupancy (CO1603907) for the property, which permits use as a two-unit flat.

ii. No Substantial Detriment to the Public Good

The Applicant received notice on November 21, 2017 from the Office of the Zoning Administrator that CO1603907 would be revoked unless the Property was brought in to compliance. The notice indicated the following:

1. A new CofO was required based upon a change in ownership; and
2. The Property is zoned RF-1, which allows only 2 units as a matter of right.

iii. No Substantial Harm to the Zoning Regulations

The RF-1 permits 2 units as a matter-of-right and allows for the conversion of existing residential buildings to an apartment house by special exception provided that there is a minimum lot area of 90 square feet per dwelling unit. The subject property fails to meet the 900 square foot requirement. Allowing the retention of this conversion, completed without necessary permits, would cause harm to the intent and integrity of the Zoning Regulations.

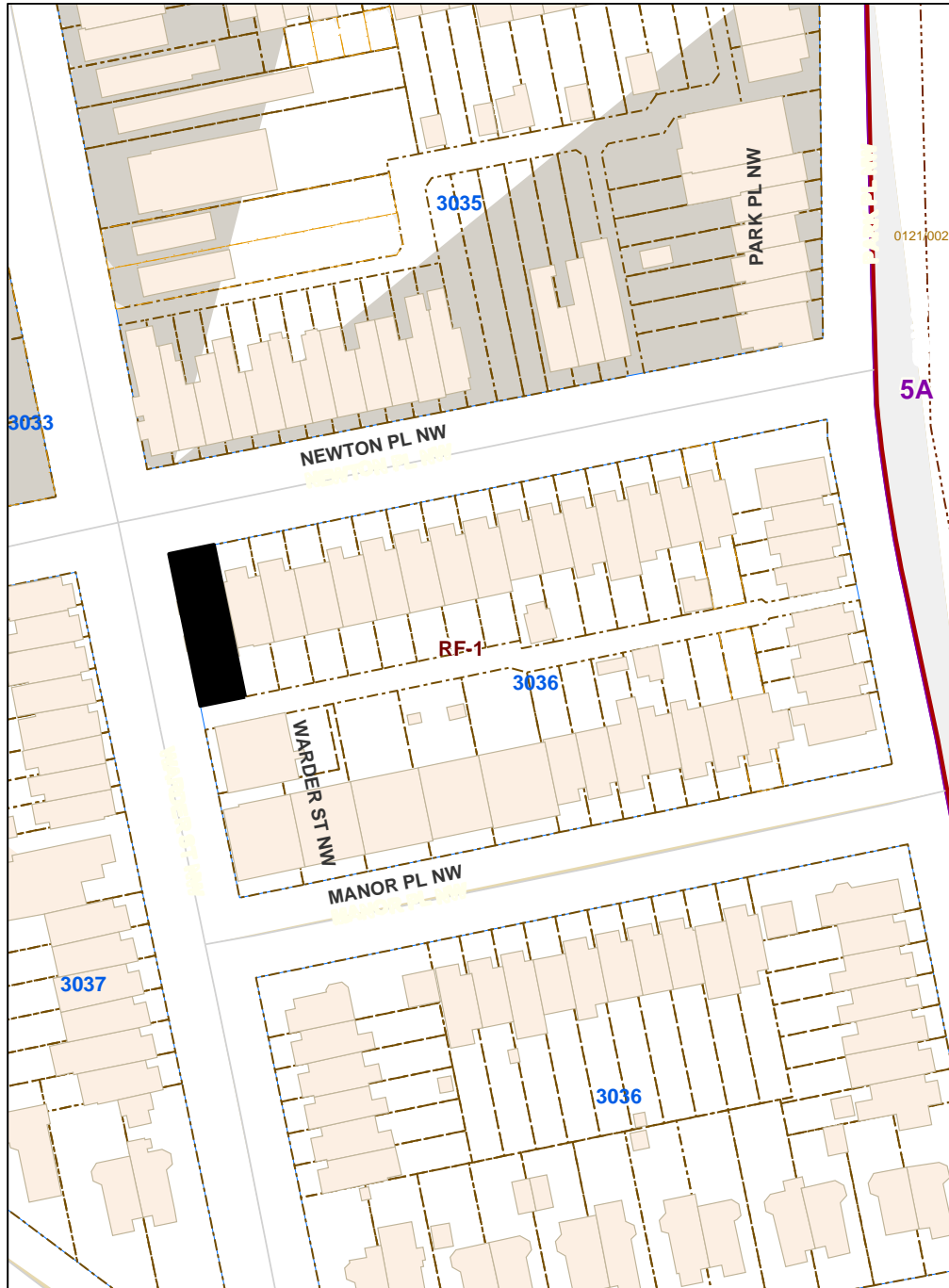
V. COMMENTS OF OTHER DISTRICT AGENCIES

Comments from other District agencies had not been received at the time this report was written.

VI. COMMUNITY COMMENTS

Comments from community members, including ANC 1A, had not been received at the time this report was written.

Attachment: Location Map



Attachment: Location Map, 452 Newton Place, NW