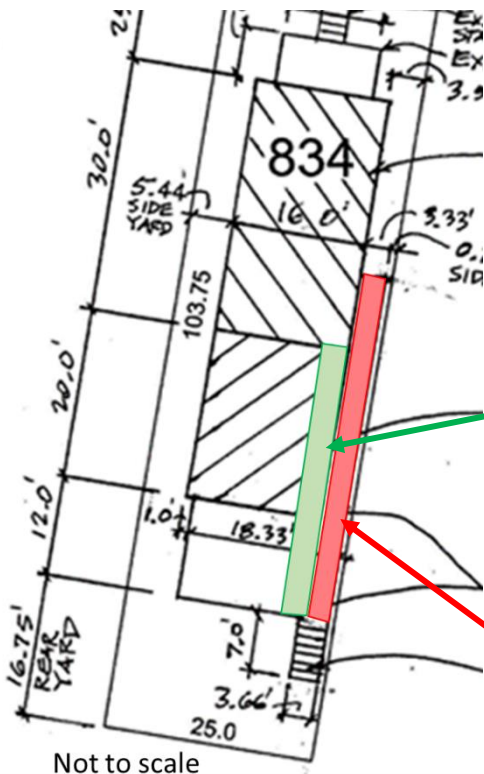


## MEMORANDUM

**TO:** District of Columbia Board of Zoning Adjustment  
**FROM:** Stephen Mordfin, Case Manager  
*JL* Joel Lawson, Associate Director Development Review  
**DATE:** October 12, 2018

**SUBJECT:** BZA Case 19852: Request for special exception relief pursuant to Subtitle D § 5201.1 to allow retention of a recently constructed rear addition and a deck to the single-family dwelling at 4521 Clay St, NE.

### I. OFFICE OF PLANNING RECOMMENDATION



The Office of Planning (OP) recommends **approval** of the following area special exceptions pursuant to Subtitle D § 5201:

- D § 304, Lot Occupancy (40% maximum permitted; 21.3% existing; 46.2% proposed);
- D § 306, Rear Yard (20-foot minimum required; 48.75 feet existing; 16.75 feet proposed);
- D § 307, East Side Yard for rear addition to the dwelling and rear deck (8-foot minimum required; 3.33 feet existing; 3.33 feet proposed, approximately shown in green); and
- C § 202.2, Nonconforming Structures.

OP recommends **denial** of the following area special exception pursuant to Subtitle D § 5201:

- D § 307, East Side Yard for the proposed new deck along the east wall of the building (8-foot minimum required; 3.33 feet existing; 0.23 feet proposed, approximately shown in red).

### II. BACKGROUND

The application indicates the existing non-conforming improvements to the subject property were recently constructed in error, necessitating the need to obtain relief to permit a reduced east side yard, reduced rear yard and increased lot occupancy. The reduced rear yard and a portion of the reduced east side yard requests are necessary for the retention of a deck, a portion of which OP is unable to support as shown above, and described more fully under Section V., OP Analysis.

**III. LOCATION AND SITE DESCRIPTION**

Address	4521 Clay Street, N.E.
Applicant	Clay St NE LLC
Legal Description	Square 5134, Lot 834
Ward, ANC	Ward 7, ANC 7D
Zone	R-2
Lot Characteristics	Rectangular lot with no alley access and a ten-foot building restriction across the front
Existing Development	One-family detached dwelling
Adjacent Properties	One-family detached dwellings
Surrounding Neighborhood Character	One-family detached and semi-detached dwellings
Proposed Development	Retain recently constructed rear and second floor additions and new side and rear deck

**IV. ZONING REQUIREMENTS and RELIEF REQUESTED**

<b>R-2 Zone</b>	<b>Regulation</b>	<b>Existing<sup>1</sup></b>	<b>Proposed<sup>2</sup></b>	<b>Relief</b>
Height D § 303	40 feet & 3 story max.	One-story	23.75 feet and two-stories	None Required
Lot Width D § 302	40-foot min.	25 feet	25 feet	None Required
Lot Area D § 302	4,000 sq.ft. min.	2,594 sq.ft.	2,594 sq.ft.	None Required
Lot Occupancy D§ 304.1	40% max.; 50% by SE	21.3%	46.2%	<b>Required</b>
Rear Yard D § 306.2	20-foot min.	48.75 feet	16.75 feet	<b>Required</b>
Side Yard (west) D § 307	5-foot min.	5.44 feet	5.44 feet	None Required
Side Yard (east) D § 307	8-foot min.	3.33 feet	0.23 feet	<b>Required</b>
Parking C § 702.3(a)	None if no alley access	None	None	None Required

**V. OP ANALYSIS**

**Subtitle D Chapter 5201 ADDITION TO A BUILDING OR ACCESSORY STRUCTURE**

*5201.1 The Board of Zoning Adjustment may approve as a special exception in the R zones relief from the following development standards of this subtitle, subject to the provisions of this section and the general special exception criteria at Subtitle X, Chapter 9:*

- (a) Lot occupancy;*
- (b) Yards;*

<sup>1</sup> Refers to conditions of the site prior to the construction that has already taken place.

<sup>2</sup> Refers to conditions of the site as currently improved.

- (c) Courts;
- (d) Minimum lot dimensions;
- (e) Pervious surface; and
- (f) **The limitations on enlargements or additions to nonconforming structures as set forth in Subtitle C § 202.2.**

The subject application requests relief from lot occupancy, side yard and rear yard and limitations on enlargements or additions to nonconforming structures.

5201.2 *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.*

The applicant requests relief to allow retention of additions to a building with one principal dwelling unit.

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 house addition extended the nonconforming existing east side yard of the main portion of the structure to the south. The rear addition to the dwelling itself respects the rear yard, and it is only the new rear deck, an open-air structure, that requires rear yard relief. Therefore, light and air should not be adversely affected. As the new deck within the side yard is at the level of the ground floor of the building, it should not unduly impact light or air to the neighboring property to the east.

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

Neither the expansion of the dwelling toward the rear nor the increase in building height to two-stories along the east side lot line should have a significant negative effect on the use of adjoining properties. The existing east side yard of 3.33 feet would be maintained, bringing it no closer to the side lot line than previously existed.

However, the deck along the east side lot line is not in character with other single-family dwellings in this zone and could have an undue impact on the privacy of the adjacent property to the east. Therefore, OP does not support the retention of the deck as constructed further into the east side yard, even though the neighbor to the east (4603 Clay Street, N.E.) submitted a letter in support of the full application. (Exhibit 32).

- (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 rear building addition is partially visible from the street. The extension of the reduced side yard, because of the construction of the second floor, is visible from the street, but maintains the side yard depth as existed since the construction of the dwelling in 1949. However, the deck along the east side of the house, at approximately the height of the

fence separating the subject property from the lot to the east, adversely affects the view from the street, as it appears to run along the top of the fence. (see Exhibit 13A, View of east side of house from rear yard)

*(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; and*

Graphical representations were provided in the form of photos and drawings, as required. (Exhibits 11, 13A and 13B)

*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 recommends the applicant remove the portion of the deck along the east side yard for reasons discussed above.

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

The relief requested would not result in the introduction or expansion of a nonconforming use. One-family detached dwellings are permitted as a matter-of-right within the R-2 zone.

*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 subject application would not result in the introduction or expansion of a nonconforming height or number of stories.

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

DDOT, in a memorandum dated October 12, 2018, indicated that it had no objection to the application. (Exhibit 36)

No other District agency comments were received as of the date of the filing of this report.

## **VII. COMMUNITY COMMENTS TO DATE**

ANC 7D, at its regularly scheduled meeting of October 9, 2018, voted to support the application. (Exhibit 35)

The adjacent neighbor to the west submitted a letter to the file in opposition. (Exhibit 30)

The adjacent neighbor to the east submitted to the file in support of the application. (Exhibit 32)

A petition in support of the application signed by seven residents of Clay Street residents was submitted to the file. (Exhibit 31)

