

## **MEMORANDUM**

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

**FROM:** Elisa Vitale, Case Manager  
*JS for*  
Joel Lawson, Associate Director Development Review

**DATE:** November 30, 2018

**SUBJECT:** BZA Case 19885 - request for special exception relief pursuant to Subtitle X § Chapter 9 from the penthouse requirements of Subtitle C, Chapter 15 to repair and replace the existing roof access stair and roof deck at 16 10<sup>th</sup> ST NE.

### **I. RECOMMENDATION**

The Office of Planning (OP) recommends **approval** of the following special exception pursuant to Subtitle X § 901 and Subtitle C § 1504.1:

- C § 1500.9, walls of uniform height (uniform height required; sloping walls proposed); and
- C § 1502.1, penthouse setback (9-foot 10.5-inch setback required; 0-foot setback at north property line and 6-foot 3-inch rear setback proposed).

OP notes that any proposed roof deck safety railings must comply with the penthouse setback requirements in Subtitle C, Chapter 15.

### **II. LOCATION AND SITE DESCRIPTION**

Address:	16 10th ST NE
Applicant:	Archfina, architect, on behalf of Lorens Helmchen, owner.
Legal Description:	Square 941, Lot 821
Ward / ANC:	6 / 6A
Zone:	RF-1 - The purpose of the RF-1 zone is to allow for detached, attached, semi-detached, single-family dwellings and flats.
Lot Characteristics:	The 880 square-foot lot is bounded by 10 <sup>th</sup> ST NE to the east, adjacent lots to the north, south, and west.
Existing Development:	The property is improved with a two-story row building in residential use.
Adjacent Properties:	The adjoining properties at 14 and 18 10 <sup>th</sup> ST NE are improved with two-story row buildings in residential use.
Historic District:	Capitol Hill Historic District
Surrounding Neighborhood Character:	The surrounding neighborhood is residential in character.

Proposed Development:	The Applicant is proposing to replace the existing penthouse stair enclosure and roof deck.
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### III. ZONING REQUIREMENTS and RELIEF REQUESTED

RF-1 Zone	Regulation	Existing	Proposed <sup>1</sup>	Relief:
Lot Width E § 201	18 ft. min.	17 ft. 6 in.	17 ft. 6 in.	Existing Nonconforming
Lot Area E § 201	1,800 sq. ft. min.	880 sq. ft.	880 sq. ft.	Existing Nonconforming
Lot Occupancy E § 304	60% max.	76%	76%	Existing Nonconforming
Rear Yard E § 306	20 ft. min.	18 ft. 6 in.	18 ft. 6 in.	Existing Nonconforming
Side Yard E § 307	None required	0 ft.	0 ft.	None Required
Height E § 303	35 ft. max./3 stories	32 ft. 7 in./ 2 stories	32 ft. 7 in./ 2 stories	None Required
Parking C § 701	1 space/1 dwelling unit	0 spaces	0 spaces	Existing Nonconforming
Penthouse Height C § 1500.4	10 ft./1 story	6 ft. 10.5 in.	9 ft. 10.5 in.	None Required
Penthouse Walls of Equal Height C § 1500.9	Equal, uniform height	Equal, uniform height	9 ft. 10.5 in. max. height	Requested
Penthouse Front Setback C § 1502.1	Equal to penthouse height	13 ft. 6 in.	11 ft. 11 in.	None Required
Penthouse Rear Setback C § 1502.1	Equal to penthouse height	12 ft.	6 ft. 3 in.	Requested
Penthouse Side Setback C § 1502.1	Equal to penthouse height	0 ft. north side 13 ft. 9.5 in. south side	0 ft. north side 13 ft. 0.5 in. south side	Requested
Penthouse Area C § 1500.4	30 sq. ft. ancillary storage	31 sq. ft.	0 sq. ft. ancillary storage	None Required

<sup>1</sup> Information provided by Applicant. See Exhibit 4.

#### IV. ANALYSIS

*1504.1 Relief to the requirements of Subtitle C §§ 1500.6 – 1500.10 and 1502 may be granted as a special exception by the Board of Zoning Adjustment subject to Subtitle X, Chapter 9 and subject to the following considerations:*

The Applicant is requesting special exception relief from the requirements of C §§ 1500.9 and 1502.1.

- (a) *The strict application of the requirements of this chapter would result in construction that is unduly restrictive, prohibitively costly, or unreasonable, or is inconsistent with building codes;*

The Applicant has an existing penthouse stair that was constructed, without building permits, by a prior owner of the Property. The existing penthouse stair does not meet building code or zoning requirements. The penthouse stair is actively leaking, and the Applicant is requesting special exception relief to permit the construction of a building code compliant penthouse stair, stair enclosure and roof deck.

- (b) *The relief requested would result in a better design of the roof structure without appearing to be an extension of the building wall;*

The Property is located in the Capitol Hill Historic District and relief from the requirement of C § 1500.9, to allow penthouse enclosing walls of unequal height, would permit a design that would minimize the bulk of the stair enclosure. While the height of the proposed stair enclosure is three feet taller than the existing penthouse, 6 feet 10.5 inches existing and 9 feet 10.5 inches proposed, it would not exceed the maximum permitted height of 10 feet.

- (c) *The relief requested would result in a roof structure that is visually less intrusive;*

The northeast corner of Square 941 is clipped by Massachusetts Avenue, NE, resulting in the potential for greater visibility due to site lines from 10<sup>th</sup> Street NE, A Street NE, and Massachusetts Avenue NE. Granting the requested relief from C § 1500.9 would result in a penthouse that would not be visible from adjacent sidewalks.

- (d) *Operating difficulties such as meeting D.C. Construction Code, Title 12 DCMR requirements for roof access and stairwell separation or elevator stack location to achieve reasonable efficiencies in lower floors; size of building lot; or other conditions relating to the building or surrounding area make full compliance unduly restrictive, prohibitively costly or unreasonable;*

The Property has an existing penthouse stair, constructed without permits, that is not code compliant and is causing damage to the roof at the Property. Strict application of the penthouse setback requirements would preclude the Applicant from being able to re-construct a building code compliant stair and stair enclosure.

- (e) *Every effort has been made for the housing for mechanical equipment, stairway, and elevator penthouses to be in compliance with the required setbacks; and*

The Property measures 17 feet and 6 inches in width and 33 feet in depth and could not accommodate a code-compliant penthouse access stair that would meet the required one-to-one

setback requirement. The Applicant proposes to locate the penthouse stair enclosure on the northern property line, which is consistent with the existing stair location and interior circulation within the home. The Applicant has located the proposed penthouse toward the rear of the home, which minimizes visibility from the street. The proposed penthouse stair enclosure would comply with the side setback requirement at the southern property line.

- (f) *The intent and purpose of this chapter and this title shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely.*

Granting the requested penthouse relief should not result in adverse impacts to the light and air available to adjacent buildings. The Property has an existing penthouse stair enclosure that the Applicant is proposing to reconstruct. The new penthouse would be in generally the same location as the existing penthouse, would be code compliant, and would not be visible from the street. Therefore, the proposed penthouse would be consistent with the intent and purpose of the Zoning Regulations.

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

At the time this report was written, comments from other District agencies had not been received.

## **VI. COMMUNITY COMMENTS TO DATE**

At its regularly scheduled meeting on November 8, 2018, ANC 6A voted 6-0 to support the Applicant's request (Exhibit 32).

Attachment: Location Map



Figure 1: Location Map, 16 10<sup>th</sup> ST NE