

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Stephen J. Mordfin, Case Manager
JL Joel Lawson, Associate Director Development Review
DATE: May 3, 2019

SUBJECT: BZA Case 19996 (1501 West Virginia Avenue, N.E.) to permit the conversion and expansion of a one-family dwelling to a three-unit apartment building

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends **approval** of the following special exception relief:

- U § 320.2, Conversion of an existing residential building existing prior to May 12, 1958 to a three-unit apartment house; and
- E § 207.2, Side Yard, pursuant to E § 5201 (5 feet required; 17 feet existing; 2.5 feet proposed).

II. LOCATION AND SITE DESCRIPTION

Address	1500 West Virginia Avenue, N.E.
Applicant	Mallard Estates, LLC
Legal Description	Square 4058, Lot 70
Ward, ANC	Ward 5, ANC 5D
Zone	RF-1
Lot Characteristics	Four-sided corner lot with rear public alley access that narrows from front to rear
Existing Development	Two-and-a-half story one-family semi-detached dwelling
Adjacent Properties	North, South and East: Row and semi-detached houses West: Across West Virginia Avenue, Gallaudet University
Surrounding Neighborhood Character	Moderate density residential
Proposed Development	Conversion of a one-family semi-detached dwelling to a three-unit apartment building with building additions to the side, rear and rooftop, including modifications to the rooftop and front porch. A six-foot fence on private property would enclose the site.

III. ZONING REQUIREMENTS and RELIEF REQUESTED

RF-1 Zone	Regulation	Existing	Proposed	Relief
Height E § 303	35 feet and 3-story max.	24.1 feet & 2 stories	35 feet and 3 stories	None Required
Lot Width E § 201	18 ft. min.	43.2 feet	43.2 feet	None Required
Lot Area E § 201	1,800 sq. ft. min.	2,861 sq. ft.	2,861 sq. ft.	None Required
Lot Occupancy E § 304	60% max.	26%	48%	None Required
Rear Yard E § 306	20-foot min.	28.3 feet	24.9 feet	None Required
Side Yard E § 307 (facing Penn Street)	None required, but 5-foot min. if provided	12.62 feet	2.5 feet	REQUIRED
Parking C § 701	1 space/2 new units or 2	1 space	2 spaces	None Required

III. OFFICE OF PLANNING ANALYSIS

a. Special Exception Relief from Subtitle U § 320.2, Conversion of an Existing Residential Building

320.2 *Conversion of an existing residential building existing on the lot 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 application proposes to increase the building height to thirty-five feet, as permitted.

(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 application requests a total of three dwelling units.

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

The subject property is improved with an existing residential building.

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

The subject property consists of 2,861 square feet, or 953.67 square feet per unit, in excess of the minimum requirement of 900 square feet.

- (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 addition is proposed to extend 3.5 feet beyond the rear wall of the adjoining principal residential building, less than the maximum ten feet permitted.

- (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 application includes an agreement from the adjoining property owner to the northeast (1503 West Virginia Avenue, N.E.) to extend that property's functioning chimney to allow for the construction of a third floor on the subject property.

- (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...***

The adjacent property to the northeast (1503 West Virginia Avenue, N.E.) is improved with rooftop solar panels. A "Solar Panel Obstruction Agreement" (Exhibit 13), signed by the owner of that property, was submitted to the file stating the applicant would conduct a sun/shade study (Exhibit 33, sheets BZA14 and BZA15) and would compensate the owner of that property "if there is a significant loss of solar production."

- (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 application proposes to relocate the front porch, including the front porch roof, to the center of the new structure along the West Virginia Avenue frontage, and has requested a waiver to this provision as permitted pursuant to Subsection (1) below. The new porch would be similar to the existing but increased in width to maintain the existing visual balance between the porch width and the building width across the front façade of the structure facing West Virginia Avenue. Although the porch would be altered, the increased width would better maintain the relationship of the porch to the front façade than if the existing porch width was to be maintained.

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

The building addition would primarily extend the exterior wall of the structure facing Penn Street into the side yard. As the subject property is a corner lot, no other residential property exists between the subject property and Penn Street, with the closest residential structure to the southwest located across Penn Street, minimizing the impact of the addition.

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

No building additions would extend into a side yard abutting an adjoining lot, no windows or doors would open into or face the adjoining rear yard, and the minimum required rear yard on the subject property would be maintained. Therefore, privacy of use and enjoyment of neighboring properties should not be adversely affected.

- (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;***

The building addition, as seen from West Virginia Avenue, Penn Street or the rear public alley would not impact the character, scale or pattern of houses. The subject property would continue to be improved with a residential row structure, while maintaining the front setback requirement along the West Virginia Avenue and Penn Street frontages.

- (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 applicant submitted plans, photographs, and elevation and section drawings sufficient to represent the relationship of the proposal to adjacent buildings and views from public ways.

- (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 makes no recommendations for special treatment.

- (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 requests to waive one requirement, § 320.2(h), to allow for the relocation of the front porch, as described above.

b. ***Subtitle E 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;***
- (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 applicant is requesting relief from the side yard on the Penn Street side of the lot.

5201.2 Special exception relief under this section is applicable only to the following:

- (a) An addition to a residential building;***
- (b) A new or enlarged accessory structure that is accessory to such a building; or***
- (c) A reduction in the minimum setback requirements of an alley lot.***

Relief is requested for an addition to a residential building, as permitted.

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 extend less than ten feet beyond the rear wall of the adjoining row house on West Virginia Avenue, minimizing the impact of that adjoining property's rear yard. A shadow study of the existing and proposed conditions during both the winter and summer solstices indicates that most of the shadowing resulting from the addition would fall either within the rear yard of the subject property or the rooftops of the row houses to the northeast during the shortest days of winter in the late afternoon. The application includes a "Solar Panel Obstruction Agreement" from the adjoining property owner to the northeast indicating that the applicant would compensate the owner of that property "if there is a significant loss of solar production" (Exhibit 13).

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

The proposed building addition would extend into the side yard on the southwest side of the property fronting Penn Street and not an adjoining residence and extend less than ten feet (3.5 feet) beyond the rear wall of the adjoining row house to the northeast, with no windows or doors facing the adjoining row house. Therefore, privacy of use and enjoyment should not be unduly compromised.

- (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;***

As viewed from the streets and alley, the addition would be in character and scale of the existing housing along the Penn Street and West Virginia Avenue frontages. It would be generally consistent with the other buildings along the same street and alley frontages, would be set back from Penn Street within the existing range of houses within that block, and extend less than ten feet beyond the rear wall of the adjoining row house to the northeast.

- (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***

The applicant submitted plans, photographs, elevation and section drawings sufficient to represent the proposed building addition from adjacent buildings and public ways.

- (e) The Board of Zoning Adjustment may approve lot occupancy of all new and existing structures on the lot up to a maximum of seventy percent (70%).***

The proposed lot occupancy is 48 percent, less than the maximum 70 percent permitted by special exception.

- 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 recommendation 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 application proposes to permit a three-unit apartment building, consistent with the provisions of Subtitle U § 320.2, Conversion of an Existing Residential Building, 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 application does not propose the introduction or expansion of a nonconforming building height or number of stories.

IV. COMMENTS OF OTHER DISTRICT AGENCIES

DDOT, in a memorandum dated April 26, 2019, had no objection to the approval of the application (Exhibit 34).

No other District agencies submitted comments to the record as of the date of filing of this report.

V. COMMUNITY COMMENTS TO DATE

No comments were submitted to the record by ANC 5D.

Attachment: Location Map

