

## MEMORANDUM

**TO:** District of Columbia Board of Zoning Adjustment  
**FROM:** Karen Thomas, Case Manager  
*JL* Joel Lawson, Associate Director Development Review  
**DATE:** October 26, 2018

**SUBJECT:** BZA Case 19844 (1033 16<sup>th</sup> Street NE): to permit construction of a flat in the RF-1 zone, requiring area variance relief pursuant to Subtitle X § 1000.1 from the minimum lot dimensions, side yard, and front yard requirements of E §§ 202.1, 307.1, B § 305.1 respectively, and special exception relief from the penthouse requirements of Subtitle C §§ 1500.4 and 1502.2

---

### **I. OFFICE OF PLANNING RECOMMENDATION**

The Office of Planning (OP) recommends **approval** of the following variance relief pursuant to Subtitle X § 1000:

- Minimum Lot Dimensions - Subtitle E § 201.1 (18 feet minimum lot width and 1,800 square feet minimum lot area required; 16.97 feet lot width and 1,501 square feet lot area provided)<sup>1</sup>;
- Side Yard - Subtitle E § 307.1 (5 feet required, none proposed); and
- Front Setback – Subtitle B § 305.1 (13 feet minimum required, 10 feet proposed);

The Office of Planning (OP) recommends **approval** of the following special exception relief pursuant to Subtitle X 900:

- Penthouse - Subtitle C § 1500.4 (Not permitted; if Provided: 10 ft. max. ht., 30 sf max. area; Provided - 8.5 ft. ht., 28 sf area); and
- Penthouse - Subtitle C § 1502.2 (1:1 setback required 8.5 feet, 0 feet proposed).

The Zoning Administrator's initial determination did not include relief from the penthouse setback requirement. However, OP discussed this further and it was determined that this relief would also be required.

---

<sup>1</sup> Under ZR-16, relief is not required from lot area or width for a non-conforming record lot; however, in this case the subject lot is a tax lot, and relief is required to convert it to a record lot which is needed to obtain building permits.

## II. LOCATION AND SITE DESCRIPTION

Address	1033 16 <sup>th</sup> Street NE
Applicant	Richard Gbolahan
Legal Description	Square 4074, Lot 0828
Ward, ANC	5/ANC 5D07
Zone	RF-1 – Permits flats, single-family row dwellings and some institutions.
Historic District	Not in a historic district.
Lot Characteristics	The flat rectangular lot is located south of a smaller undeveloped lot, which abuts a 10-foot wide alley. The subject lot abuts a 20-foot wide alley at the rear.
Existing Development	The lot is currently undeveloped.
Adjacent Properties	The property fronts on 16 <sup>th</sup> Street, abutting a two-story, single-family row dwelling to the south, a vacant lot to the north and an alley system at the east/rear property line.
Surrounding Neighborhood Character	The property is within the Trinidad neighborhood, where there are predominantly small row dwellings with a mix of other residential uses, including a school, church and small apartment buildings. The subject square fronts on Bladensburg Rd NE to the east.
Proposed Development	The applicant proposes to construct a three-story flat, with a habitable cellar and roof deck.

**III. ZONING REQUIREMENTS and RELIEF REQUESTED**

<b>Zone- RF-1</b>	<b>Regulation</b>	<b>Existing</b>	<b>Proposed</b>	<b>Relief</b>
Height (ft.) E § 303	35 ft. max.	undeveloped	34 ft. 6 ins.	None Required
Lot Width (ft.) E § 201.1	18 ft. min.	16.97 ft.	16.97 ft.	Existing Nonconformity <b>Variance Required</b>
Lot Area (sq. ft.) E § 201.1	1,800 sq. ft. min.	1,501 sf.	1,501 sf.	Existing nonconformity <b>Variance Required</b>
Floor Area Ratio	None prescribed	N/A	N/A	- -
Lot Occupancy E § 304	60% max.	undeveloped	55.75 %	None Required
Rear Yard (ft.) E § 306	20 ft. min.	undeveloped	20 ft.	None Required
Side Yard (ft.) E § 307	5 feet min.	undeveloped	0 ft.	<b>Variance Required</b>
Parking C § 701	1 space per 2 du	undeveloped	1 space	None Required
Front Setback E § 305.1 <i>To be provided within the range of existing front setbacks of all structures on the same side of the street.</i>	13 feet minimum	undeveloped	11 feet	<b>Variance Required</b>
Penthouse C § 1500.4	Not permitted. If provided, max.10 ft. high and 30 sf.	N/A	Ht. = 8.5ft. Area = 28.7 sf	<b>SE Required</b>
Penthouse Setback C § 1502.1 (c) (1) (A)	1:1 setback required from sidewalls = 8 feet	N/A	0 feet	<b>SE Required</b>

**IV. OFFICE OF PLANNING ANALYSIS**

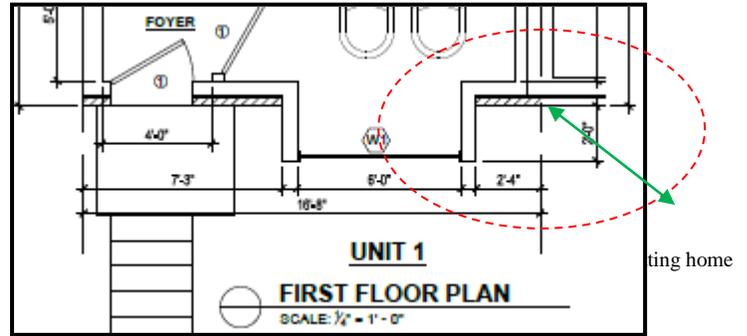
**Variance Relief**

**i. Exceptional Situation Resulting in a Practical Difficulty**

Minimum Lot Dimensions: The undeveloped lot has a lot area and width that are less than the minimum dimensions prescribed for development in the RF-1 zone but typical for rowhouse lots in this area. The lot is not in common ownership with the adjacent lot to the north to facilitate the creation of a conforming lot and the lot to the south is developed with a rowhouse. This creates a hardship for the applicant in providing a standard lot in conformance with the zone’s requirements.

Side Yard: Provision of a five-foot side yard, would yield an 11.97 ft.-wide footprint for development. As such, the existing lot area, and the applicant’s inability to assemble lots to create conforming lot dimensions, would create a substandard building layout, should the side yard be provided, and the applicant states that such practical difficulty would prohibit any building on the lot.

Front Setback: The proposed design includes habitable space with bay windows, which project two feet from the main façade, extending from the first through the third floor. The projection is 2 feet 4 inches from the adjacent home's front facade to the south and the subject's property's front façade aligns with the existing front façade of the abutting home. All buildings on the block are set back 13 feet from the front property line. There is no building restriction line. (See Exhibit 30 Sheet A001- small section shown herein). The proposed projection and bay window provides articulation to the front façade and additional space for living area. (See Exhibit 30 – Floor Plans, Sheet A001). The applicant claims a practical difficulty in losing the additional habitable space provided by the projection for the living areas of the flat.



### ii. No Substantial Detriment to the Public Good

Substantial detriment is not anticipated to the public good as the proposal would fill in an undeveloped gap along a residential street. Two row house homes south of the subject property are 1,500 sf in area and the vacant lot to the north is 1,451 square feet. The lot area is not unusual on the block-face for the row dwellings. The proposed flat would therefore be similar along the frontage by attaching lot line-line to lot-line. Light and air to adjacent homes would not be adversely impacted, as the common wall adjoining the home to the south does not have at-risk windows. Along the north, windows are not included along the shared lot line of the vacant lot, which could accommodate potential future development. The proposal would therefore reinforce the residential character of the square and block.

With respect to the front setback, the projection is a design feature not unusual for row structures, which can often have a variety of facades within a row. Such features do provide some interior habitable space for buildings on smaller lots. Substantial detriment to the public good is not anticipated in this case.

### iii. No Substantial Harm to the Zoning Regulations

The size of the existing tax lot is consistent with other rowhouse lots in the area, and the tax lot appears to have existed even prior to the 1958 Regulations. The proposed lack of side yard would be consistent with existing development on the block, where there are no side yards, as the RF-1 zone permits attached row dwellings. The new flat would provide a required rear yard and lot occupancy within the maximum permitted bulk requirement of the zone, so open space would be provided between the proposed home and the apartment building located north of the adjacent vacant lot and 10-foot wide alley. Substantial harm to the regulations would not be anticipated, as side yards are not typical in the RF-1 zone. Therefore, relief from the minimum lot dimensions and the side yard should not substantially harm the intent of the zoning regulations.

The intent of the front setback is to control the relationship of buildings to the streetscape. The proposed building's façade would be minimally closer by 2 feet, measuring up to 12 square feet in area for each floor above grade. The projection would provide additional area to rooms on this small lot, while providing appropriate front façade articulation. Therefore, the proposal would not be contrary to the regulations.

**Special Exception - C § 1500.4 – Penthouse General Provision C§ 1502 Penthouse Setback**

**Penthouse General Provision**

*Notwithstanding Subtitle C § 1500.3, a penthouse, is permitted as a special exception in the RF-1 zone, provided the penthouse is no more than ten feet (10 ft.) in height, contains no more than one (1) story; and provides only stair or elevator access to the roof, with a maximum of thirty square feet (30 sq. ft.) of storage space ancillary to a rooftop deck.*

The proposed stair penthouse would have a height of 8 feet 6 inches above the roof and an area of 28 square feet (Exhibit 30 Sheet A002).

OP supports special exception relief as the design satisfies the conditions above and it is not anticipated to harm the public good or the intent of the regulations.

**Penthouse Setback**

*Penthouses... shall be setback from the edge of the roof upon which it is located as follows:*

*(c) A distance equal to its height from the side building wall of the roof upon which it is located if:*

*(1) In any zone, it is on a building used as a detached dwelling, semi-detached dwelling, rowhouse or flat, that is:*

*(A) Adjacent to a property that has a lower or equal permitted matter-of-right building height,*

The penthouse is not set back from the roof edge as required. Rather, it is located along the east lot line. Front and rear setbacks are compliant.

*Per C §1504 relief ... may be granted as a special exception subject to Subtitle X, Chapter 9 and subject to the following considerations:*

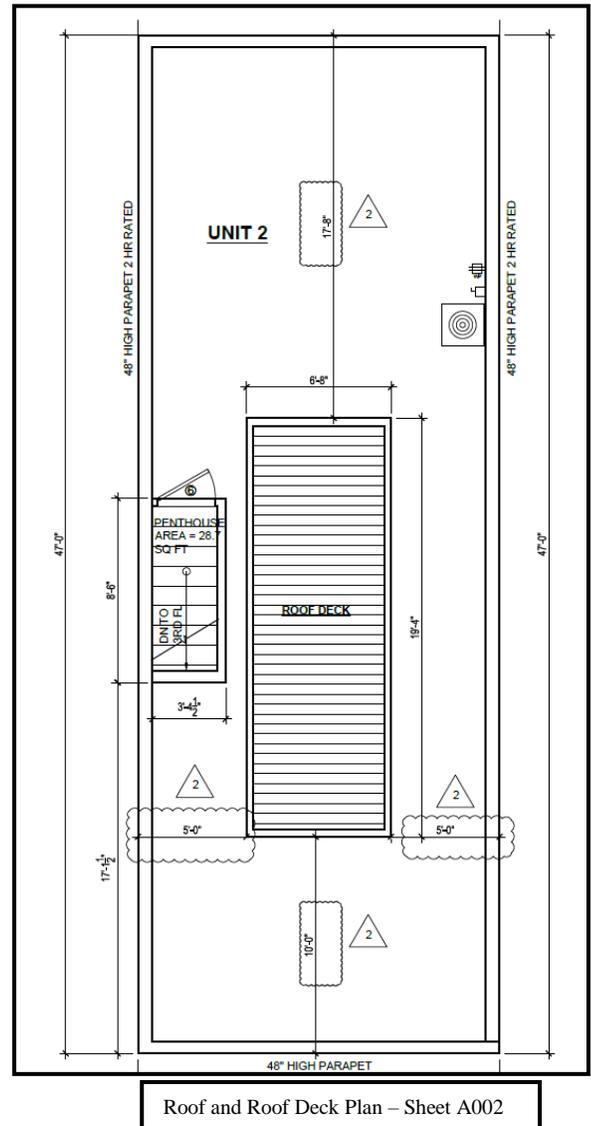
*(a) The strict application of the requirements of this chapter would result in construction that is unduly restrictive, prohibitively costly, or unreasonable, or is inconsistent with building codes;*

Construction of the penthouse to meet the required setback from the side building walls of the roof would be impractical due to the width of the lot.

*(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 relief requested would result in a more efficient floor design below, allowing the stairs to abut the interior side wall, which is typical for row dwellings. The penthouse should not appear to be an extension of the building wall, as it would only be 8 feet 6 inches in length along the 47-foot southern elevation, and a four-foot parapet would be placed above the roof line's perimeter, as shown in the drawings on Sheet A004.

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



Approximately four feet of the penthouse would project above the 4 feet tall parapet. It may be visible from the north along 16<sup>th</sup> Street, due to the undeveloped lot and alley abutting the subject property. However, this visibility should not be permanent since the adjacent lot would be developed in the future. The penthouse would not be visible directly from the 16<sup>th</sup> Street frontage, as it is setback ten feet from the roof's edge at the front and 17 feet from the roof's edge at the rear. The four-foot parapet around the roof edge's perimeter should minimize the penthouse's visibility.

*(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;*

As stated prior, placing the stairwell in this location would help achieve reasonable efficiencies in Unit 2's floor layout below. Placement of the penthouse away from the sidewalls would still require relief, as full compliance for a penthouse could not be provided based on the lot's width at 16.97 feet.

*(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*

As stated prior, relief may have been necessary, even if the stairs were set in the middle of the floor's design, which would not be efficient. The floor's layout is typical of row dwellings, and the regulations allow for relief where necessary. Even if a hatch were to be provided, relief would also be necessary to permit the hatch to open greater than four feet above the roof for reasonable access to and from the roof.

*(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.*

The intent of the regulations would not be harmed since setbacks are intended to control visibility from public space, as well as to mitigate the impacts to light and air on neighboring properties. In this case, no harm should accrue to the abutting residence and the adjacent lot to the north is currently undeveloped.

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

The District Department of Transportation's report is included in the record as Exhibit 33.

## **VI. COMMUNITY COMMENTS**

The ANC 5D voted to support the project at its regularly scheduled meeting on October 9, 2018. At the writing of this report, no other letters in support or opposition are noted in the record at the writing of this report.

Attachment: Location Maps

