



MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Maxine Brown-Roberts, Project Manager
Joel Lawson, Associate Director Development Review

DATE: July 10, 2012

SUBJECT: BZA 18376 – 3453 Holmead Place, NW

I. RECOMMENDATION

Cornelle Smith (applicant) has requested the following variances pursuant to 11 DCMR § 3103.2, to accommodate 3rd and 4th floor additions to an apartment building in the R-4 district:

- § 400.1, Height (40 ft./3 stories permitted, 38.5 ft./4 stories proposed); and
- § 406.1, Open Court (10 ft. wide minimum required, 2.67 ft. provided)

OP also notes that the subject property is nonconforming in the following areas:

- § 401.1, Lot Area (4,000 sq. ft. required, 2,117 sq. ft. proposed);
- § 401.1 Lot Width (40 ft. required, 16.67 ft. provided); and
- Lot Occupancy (40% required, 59.4% provided)

The Office of Planning (OP) recommends **APPROVAL** of the extension of a nonconforming open court to accommodate the 3rd floor addition and **DENIAL** of the request 4th floor addition.

II. AREA AND SITE DESCRIPTION

Address	3453 Holmead Place, NW
Legal Description:	Square 2834, Lot 0073
Ward/ANC:	1/ANC-1A
Lot Characteristics:	The property is a rectangular lot with an area of 2,117 square feet and fronts on Holmead Place, NW and has a 16 feet wide alley to its rear.
Existing Development:	The property is developed with a four story apartment building with 4 units and accommodates 2 parking spaces.
Zoning:	R-4
Adjacent Properties:	North, south and west – 3-story rowhouse. West - 2-story rowhouses.
Surrounding Neighborhood Character:	The neighborhood is characterized by mixture of 2-, and 3-story row houses, 3- to 5-story apartment buildings and is interspersed with a few institutional and retail uses in the R-4 district.
Historic District	Not within a historic district.

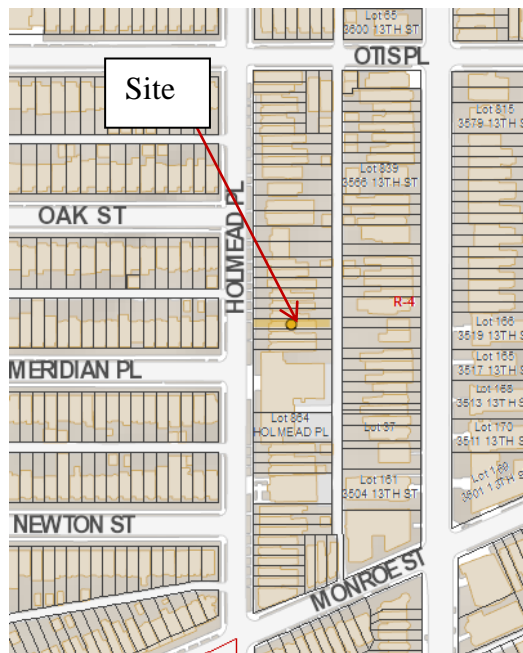


III. APPLICATION

The subject property was developed with a 3-story apartment building with a partially above grade basement and houses four residential units. The applicant has constructed an addition to the rear of the 3rd floor and a partial 4th floor without a Building Permit. The building has a non-conforming 2.67 feet wide open court which will be extended with the addition to the 3rd floor and a new 4th floor. The property has two parking spaces to the rear of the property accessed via the alley.



Photograph of Site



Site Location and Zoning

IV. ZONING REQUIREMENTS and REQUESTED RELIEF

The subject site is within a R-4 district which is “*designed to include those areas now developed primarily with row dwellings, but within which there have been a substantial number of conversions of the dwellings into dwellings for two (2) or more families.*” The R-4 requirements and how the proposal meets them are outlined below:

R-4 Zone	Regulation	Proposed¹	Relief
Height (ft.) § 400.1	40 ft./3 stories max.	38. 5 ft./4 stories	Required
Lot Area (sq. ft.) § 401	4,000 sq. ft.	2,117 sq. ft.	Required. Existing Nonconformity
Lot Width (ft.) § 401	40 ft.	16.67 ft.	Required. Existing Nonconformity
Lot Occupancy § 403	60% max. <i>40% for "All Structures"</i>	59.4%	Required. Existing Nonconformity
Rear Yard (ft.) § 404	20 ft. min.	29 ft.	None required
Open Court	10 ft. width	2.67 ft. width	Required

Because and apartment building is not listed as a permitted use in the R-4 zone, the applicant provided information from the Zoning Administrator (ZA) which stated that the lot area and lot width requirement are calculated based on the building being defined as "All other structures" in the R-4 district (§ 401.1) which requires a lot area of 4,000 square feet and a lot width of 40 feet minimum. However, in calculating the lot occupancy requirement, the ZA determined that the calculation should be based on the "Conversion of a building or structure to an apartment house" (§ 403.2). It is OP's opinion that to be consistent the lot occupancy should be calculated based on the requirement for "All other structures".

V. OFFICE OF PLANNING ANALYSIS

The proposal for the additions to the building was referred to the BZA by the Zoning Administrator subsequent to the applicant constructing the 3rd floor addition and the new 4th floor without a Building Permit. The applicant has requested a variance from Section 400.1 of the Regulations to increase the height of the building from 3 stories to 4 stories and to extend the nonconforming open court. Additionally the building has a nonconforming lot area, lot width, and lot occupancy. The standard by which the BZA should approve a variance is set forth in Section 3103.2 of the Zoning Regulations. The following demonstrates how these standards are met:

Variances

The property is unique by reason of its exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situation or condition;

Lot area, lot width, lot occupancy, and open court

The property is unique due to an exceptional situation in that the lot and the building were created prior to the existing 1958 Zoning Regulations and does not meet the standards of the current Regulations.

Height

The applicant concedes that the addition was constructed without a Building Permit and was issued a Stop Work Order. In their submission, the applicant has tried to demonstrate that there is a uniqueness due to an exceptional circumstance that results in a practical difficulty due to the actions taken by DCRA and has referred to prior BZA approvals² to justify keeping the addition. The applicant highlights that in the referenced BZA Orders, the requested 4th floor addition was approved based on the actions of the ZA that would have been a practical difficulty to the property owner to remove the 4th floor. The applicant fails to address that in the referenced cases the BZA found that DCRA had erred because the property owners were granted Building Permits for the addition prior to construction and that the construction was done in good faith based on approved plans. In the instant case, the plans for the addition were never reviewed, nor was a

¹ Information provided by applicant.

² BZA 17039 and BZA 17218

Building Permit issued by DCRA. Therefore, the practical difficulty claimed by the applicant is self-inflicted.

The applicant states that the topography of the site is unique as it results in a building that shows as 3-stories in the front and 4 stories in the rear as the property slopes down from along Holmead Place down towards the alley. However, it has not been demonstrated that the topography constitutes a unique situation which results in an exceptional situation that increase the building to 4 floors.

The applicant also submits that the 3rd and 4th floor are connected via the HVAC system, roof, sprinkler and internal stairs and would cost \$50,000 to remove the 4th story which would be an exceptional circumstance for the applicant. However, the addition was constructed by the applicant without a Building Permit and therefore a self-inflicted situation.

By reason of the aforementioned unique or exceptional condition of the property, the strict application of the Zoning Regulations will result in peculiar and exceptional practical difficulties or to exceptional and undue hardship upon the owner of the property.

Lot area, lot width, lot occupancy

The exceptional circumstance of the lot area, lot width, and lot occupancy make the applicant unable to meet the requirement which would only be possible if the lots were able to be consolidated with adjacent lots. This is not possible as both adjoining lots are developed with residences.

Open court

The existing building has a nonconforming open court which could only be expanded to meet the 10-foot wide requirement by the demolition of a portion of the existing building. Such an endeavor would be an exceptional practical difficulty as it could affect the integrity of the structure. There is also the option to fill in the court area and expand the building to the property line. The houses along Holmead Place have a pattern of courts between buildings to allow light and air into the rear portions of the houses. If the applicant were to fill in the court there is a possibility that the adjacent property would be negatively affected.

The proposed 3rd and 4th floor additions would retain the existing court nonconforming court width. The lot width is 16.67 feet and the addition would be narrowed to approximately 6-feet wide which would make the space unusable and therefore be a practical difficulty for the applicant. A second option would be to extend the building to the property line. However, this could negatively impact the adjacent property as the light, air and privacy to the property could be reduced and would therefore not be a practical option. .

Height

The applicant has not described a unique condition that is not self-inflicted and which causes a practical difficulty.

The variance will not cause substantial detriment to the public good and will not impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

The variance to the lot area, lot width, lot occupancy, open court to accommodate the addition of the 3rd floor would not result in any additional units and will be consistent with the intent, purpose and integrity of the zone plan and map.

The applicant has not demonstrated a uniqueness that would results in a practical difficult except for the self-inflicted cost to demolish the addition. The 4th floor addition is therefore not consistent with the intent, purpose and integrity of the zone plan and map.

VI. COMMUNITY COMMENTS

The property is within ANC-1A. The proposal is schedule to be reviewed at the July 13, 2012 meeting for review. The applicant states that the adjacent neighborhood located at 3455 Holmead Place, to the north of the site, has expressed some concerns regarding windows on the north side of the addition. The applicant states that they have enclosed those windows.

VII. SUMMARY AND RECOMMENDATION

The applicant has not met the variance test for the 4th floor addition and therefore OP recommends **DENIAL of the 4th floor addition**. OP recommends **APPROVAL** of the lot area, lot width, lot occupancy, and open court to accommodate the 3rd floor addition.