District of Columbia
Office of Planning

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Elisa Vitale, Case Manager

Joel Lawson, Associate Director Development Review

DATE: March 14, 2013

SUBJECT: BZA Case 18527, 1116 K Street NE - request for special exception relief from building lot control (§ 2516.1) and area variance relief from nonconforming structures devoted to conforming uses (§ 2001.3), required rear yard (§ 404.1), and off-street parking (§ 2101.1) to permit two principal buildings on a single lot.

I. OFFICE OF PLANNING RECOMMENDATION

With regards to this proposal to permit two principal buildings on a single lot at 1116 K Street NE, the Office of Planning (OP) recommends **approval** of the following relief:

Special Exception (pursuant to § 3104.1):

- § 2516.1, building lot control, to permit two principal buildings on a single subdivided lot of record.

Area Variance (pursuant to § 3103.2):

- § 404.1, rear yard (20 feet required, 4.15 feet proposed); and
- § 2101.1, off-street parking (1 required, 0 proposed).

OP **cannot recommend approval** of the following relief:

- § 2001.3, nonconforming structures devoted to conforming uses, to permit a third floor addition to an existing nonconforming structure.

OP notes that the subject lot is nonconforming with respect to lot area (§ 401), lot width (§ 401), and lot occupancy (§ 403).

II. LOCATION AND SITE DESCRIPTION

Address:	1116 K Street NE (See Attachment 1.)
Legal Description:	Square 980-N, Lot 7
Ward:	6A
Lot Characteristics:	The subject lot (property) is rectangular in shape and measures 16 feet in width by 70 feet in length. The property fronts K Street NE to the south and a 10-foot wide public alley to the north.
Zoning:	R-4 – detached, attached, semi-detached, single family dwellings and flats.

Existing Development:	Attached row dwelling, which is permitted in this zone; and a two-story brick building with basement that fronts on the 10-foot wide public alley.
Adjacent Properties:	Attached row dwellings/flats.
Surrounding Neighborhood Character:	Attached row dwellings with commercially-zoned properties fronting Florida Avenue, as well as the Gallaudet University campus to the northwest of the subject lot.

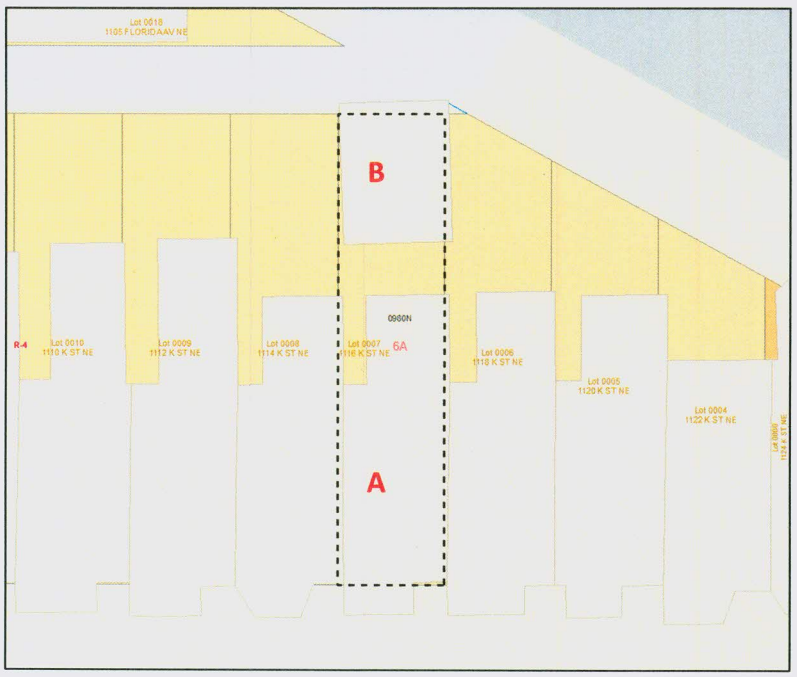


Figure 1: Subject Lot Showing Structure A and Structure B

III. PROJECT DESCRIPTION IN BRIEF

Applicant	Jill Marion, property owner
Proposal:	The applicant proposes to convert the existing two-story brick building with basement that fronts on the alley (Structure B) to a second single family dwelling and to add a third floor, which would increase the nonconformity of the already existing nonconforming structure. This would create two principal buildings on one single subdivided lot of record.

Relief Sought:	Special exception and area variance pursuant to 11 DCMR §§ 3104.1 and 3103.2: special exception pursuant to § 2516.1 to permit two principal buildings on a single subdivided lot of record; variance from § 2001.3 to permit a third floor addition to an existing nonconforming structure which will increase the nonconformity; variance from § 404.1 to permit a single-family dwelling that does not meet the required rear yard setback; and a variance from § 2101.1 to permit a single-family dwelling that does not provide the required parking to allow the conversion of an existing structure to a single-family dwelling and permit two principal buildings on a single subdivided lot of record in the R-4 zone.

IV. ZONING REQUIREMENTS

R-4 Zone	Regulation	Existing	Proposed [1]	Relief:
Height § 400	40 ft. max. 3 stories	Approx. 20 ft. 2 stories	30 ft. ½ inch 3 stories	None required
Lot Area (sq. ft.) § 401	1,800 sq. ft. min.	1,120 sq. ft.	No change	None required
Lot Width (ft.) § 401	18 ft. min.	16 ft.	No change	None required
Lot Occupancy § 403	60% max., 70% by special exception	88%	No change	None required
Rear Yard (ft.) § 404	20 ft. min.	8.3 (Structure A) N/A (Structure B)	4.15 (Structure A) 4.15 (Structure B)	15.85 (Structure A) 15.85 (Structure B)
Parking (§ 2101.1)	1 space/unit	0	0	1 space

V. OP ANALYSIS

Background

Square 980-N, Lot 7 has historically featured 2 structures. Structure A (1116 K ST NE) was built in 1910 and served as a single-family residential structure for the property owner, Karman Bretler. Structure B (1109 Florida AVE NE), also built in 1910, was a commercial business, K. Bretler Groceries, Meats and Provisions, which operated at this location until the 1940s. The structures were connected at one time, but the connection deteriorated and was removed.

The subject property was zoned C-2-A or medium density community business center until 1994 at which time the property was rezoned to R-4 (Zoning Commission Order No. 753). The applicant purchased the property in 2007. The applicant has indicated that they intend to live in Structure A and rent Structure B, should the requested relief be granted.

Special Exception: § 2516 Exceptions to Building Lot Control (Residence Districts)

2516.1 If approved by the Board of Zoning Adjustment as a special exception under § 3104, two (2) or more principal buildings or structures may be erected on a single

[1] Information provided by applicant.

subdivided lot, subject to the provisions of this section.

The proposal is to convert the existing two-story brick building with basement that fronts on the alley and Florida Avenue (Structure B) to a second single-family dwelling and to add a third floor, which would increase the nonconformity of the already existing nonconforming structure. This would create two principal buildings on one single subdivided lot of record.

2516.2 This section applies to construction on a lot that is located in, or within twenty-five feet (25 ft.) of a Residence District.

The subject property is within a residence district, R-4.

2516.3 In addition to other filing requirements, the applicant shall submit to the Board, with the new application, four (4) site plans for all new rights-of-way and easements, and existing and preliminary landscaping and grading plans with approximate building footprints; provided:

(a) The applicant shall also submit, either with the original application or at a later time, final landscaping and grading plans and two (2) sets of typical floor plans and elevations; and

(b) If the applicant elects to submit the plans referenced in § 2516.3(a) at a later date, the Board's original approval shall be conditional, subject to a later public hearing and final decision on the project as a whole.

The proposal does not create any new rights-of-way and easements. The applicant has provided floor plans and elevations for the conversion of and addition to Structure B. The applicant is not proposing to modify the building footprint for Structure B. The applicant has provided a topographical plan for the site and is not proposing to modify the grade of the property. No modifications are proposed to Structure A. The applicant has not submitted landscaping plans for the property.

2516.4 The number of principal buildings permitted by this section shall not be limited; provided, that the applicant for a permit to build submits satisfactory evidence that all the requirements of this chapter (such as use, height, bulk, open spaces around each building, and limitations on structures on alley lots pursuant to § 2507), and §§ 3202.2 and 3202.3 are met.

The lot does not meet the lot area, lot width, or lot occupancy requirements; however, these existing conditions are grandfathered. A flat, with two units in one building, would be permitted by-right on this property. The conversion to a single-family dwelling and construction of an addition to Structure B necessitates three area variances - rear yard (§ 404.1), parking (§ 2101.1), and expansion of an existing nonconforming structure (§2001.3). The applicant has requested variance relief from these requirements.

2516.5 If a principal building has no street frontage, as determined by dividing the subdivided lot into theoretical building sites for each principal building, the following provisions shall apply:

(a) The front of the building shall be the side upon which the principal entrance is located;

(b) Open space in front of the entrance shall be required that is equivalent either to the required rear yard in the zone district in which the building is located

or to the distance between the building restriction line recorded on the records of the Surveyor of the District of Columbia for the subdivided lot and the public space upon which the subdivided lot fronts, whichever is greater;

(c) A rear yard shall be required; and

(d) If any part of the boundary of a theoretical lot is located in common with the rear lot line of the subdivided lot of which it is a part, the rear yard of the theoretical lot shall be along the boundary of the subdivided lot.

Structure A has frontage on K Street NE and Structure B will front on the 10-foot improved alley where it intersects with Florida Avenue. The applicant has indicated that the property will not be re-subdivided into two lots. Structures A and B will not satisfy the requirement for a 20-foot rear yard setback (§ 404.1) and the applicant has requested relief.

2516.6 In providing for net density pursuant to § 2516.11, the Board shall require at least the following:

(a) The area of land that forms a covenanted means of ingress or egress shall not be included in the area of any theoretical lot, or in any yard that is required by this title;

(b) Notwithstanding any other provision of this title, each means of vehicular ingress or egress to any principal building shall be twenty-five feet (25 ft.) in width, but need not be paved for its entire width;

(c) If there are not at least two (2) entrances or exits from the means of ingress or egress, a turning area shall be provided with a diameter of not less than sixty feet (60 ft.); and

(d) The requirements of paragraphs (b) and (c) of this subsection may be modified if the Board finds that a lesser width or diameter will be compatible with, and will not be likely to have an adverse effect on, the present character and future development of the neighborhood; provided, that the Board shall give specific consideration to the spacing of buildings and the availability of resident, guest, and service parking.

Not applicable.

2516.7 Where not in conflict with the Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452, as amended; D.C. Official Code §§ 6-601.01 to 6-601.09 (2001) (formerly codified at D.C. Code §§ 5-401 to 5-409 (1994 Repl. & 1999 Supp.))), the height of a building governed by the provisions of this section, in all zone districts, shall be measured from the finished grade at the middle of the front of the building.

The height limit for buildings in the R-4 district is 40 feet or 3 stories. Both buildings would be within the height limit.

2516.8 The proposed development shall comply with the substantive provisions of this title and shall not likely have an adverse effect on the present character and future development of the neighborhood.

The R-4 zone permits two principal dwelling units on a property; they must, however, be located in one structure. In the subject case, the two existing structures on the property pre-date zoning and

were in fact connected at one time. The applicant has indicated that the connection deteriorated and was removed. If the connection existed at this time, relief from § 2516.1 would not be required.

The lot width, lot area and lot occupancy do not conform to the requirements of the R-4 zone; however, two structures have existed on the property since 1910 and these conditions are grandfathered.

The applicant has requested variance relief from the rear yard (§ 404.1), parking (§ 2101.1), and expansion of an existing nonconforming structure (§2001.3) requirements. See the ***Variance*** discussion below for a detailed analysis of the requested relief.

2516.9 Before taking final action on an application under this section, the Board shall refer the application to the D.C. Office of Planning for coordination, review, and report, including:

(a) The relationship of the proposed development to the overall purpose and intent of the Zoning Regulations, and other planning considerations for the area and the District of Columbia as a whole, including the plans, programs, and policies of other departments and agencies of the District government; provided, that the planning considerations that are addressed shall include, but not be limited to:

(1) Public safety relating to police and fire concerns;

(2) The environment, relating to water supply, water pollution, soil erosion, and solid waste management;

(3) Public education;

(4) Recreation;

(5) Parking, loading, and traffic;

(6) Urban design;

(7) As appropriate, historic preservation and visual impacts on adjacent parkland;

(b) Considerations of site planning; the size, location, and bearing capacity of driveways, deliveries to be made to the site; side and rear yards; density and open space; and the location, design, and screening of structures;

(c) Considerations of traffic to be generated and parking spaces to be provided, and their impacts;

(d) The impact of the proposed development on neighboring properties; and

(e) The findings, considerations, and recommendations of other District government agencies.

The proposed development is not inconsistent with the Comprehensive Plan and the intent of the R-4 zone, which permits, by-right, two units within one building. Adequate access for public safety vehicles is provided, while access to public recreation and public education are provided in the wider neighborhood. The proposed addition would not negatively impact these services. The applicant indicates that the adjoining property owners at 1114 and 1118 K Street NE support the requested special exception and variance relief.

Overall, the proposed development should not negatively impact the existing neighborhood.

> *2516.10 The Board may impose conditions with respect to the size and location of driveways; net density; height, design, screening, and location of structures; and any other matter that the Board determines to be required to protect the overall purpose and intent of the Zoning Regulations.*

As required by § 2516.3, OP recommends that the Board require the applicant to submit a final landscaping plan prior to approval, and does not recommend relief that would allow the construction of the third floor.

Variance

Pursuant to § 3103.2, the applicant has requested the following variances:

- Area variance relief from § 2001.3 to permit a third floor addition to an existing nonconforming structure and conversion to a new single-family dwelling;
- Area variance relief from § 404.1 to permit a single-family dwelling that does not meet the required rear yard setback (20 feet required, 4.15 feet proposed); and
- Area variance relief from § 2101.1 to permit a single-family dwelling that does not provide the required parking (1 required, 0 proposed).

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:

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

With respect to the rear yard (§ 404.1) and parking requirement (§ 2101.1) relief requests, the buildings were both originally constructed well before the current zoning code. The structures, as built and sited on the subject lot, do not provide the required rear yard setbacks. No parking was required or provided at the time of construction. The size of the property, along with the placement of the existing buildings, precludes the applicant's ability to provide parking at this time.

With respect to the expansion of a nonconforming structure (§ 2001.3), the applicant has not demonstrated the exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situation or condition that justifies the need to construct the third floor addition. OP recognizes that the rear structure was constructed prior to zoning, served as a commercial business, was placed in the C-2-A zone, and then subsequently rezoned to R-4. However, the existing two-story structure with basement could be re-purposed as a second principal dwelling unit without the need for the third floor addition.

> *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.*

This is an existing situation – Structure B was constructed as a commercial business fronting on Florida Avenue. In order to meet the 20-foot rear yard requirement, the building would have to be moved or the footprint reduced which would be an exceptional practical difficulty on the applicant and would make the structure virtually unusable.

With respect to the requested relief for the third floor addition to Structure B, the applicant has not demonstrated a peculiar and exceptional practical difficulty or exceptional and undue hardship.

Therefore, OP cannot recommend approval of the requested variance relief to increase the size of the existing nonconforming structure.

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.

Structures A and B have existed at their current locations since 1910 and have not affected the neighborhood. Granting the requested variance relief for rear yard setback and parking should not cause substantial detriment to the public good and should not impair the intent, purpose and integrity of the zone plan. There have been no additions to the structure over the years and there should not be any detriment to the public good if they are retained in their current location.

OP cannot support the request for relief from § 2001.3 to expand the existing nonconforming structure. With the addition of the proposed third floor, which would bring Structure B to a height of 30 feet and ½ inch, Structure B will no longer be compatible with the other alley dwellings located on the block and will not be in keeping with the surrounding architectural character.

VI. COMMUNITY COMMENTS

The applicant indicates that the proposal has been reviewed with the adjoining property owners at 1114 and 1118 K Street NE and that no objections were raised.

ANC 6A's Economic Development and Zoning Committee have made a recommendation that the ANC support the applicant's request for special exception and variance relief. ANC 6A will take up the matter at its regularly scheduled meeting on March 14, 2013.

VII. COMMENTS OF OTHER DISTRICT AGENCIES

Comments had not been received from other agencies at the time this report was written.

Attachments:

1. Location map

OPID0023103

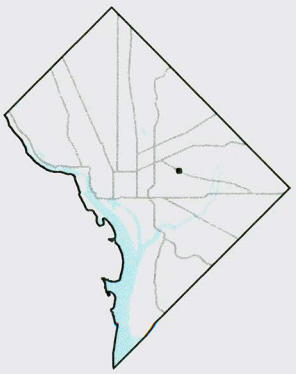
Feet

0 50 100

N

Development Review

- Zoning Districts
- Roads
- Street Centerlines
- Buildings
- Alleys and Parking
- 2002 ANCs
- Water
- Parks



Government of the District of Columbia

Office of Planning ~ March 14, 2013

This map was created for planning purposes from a variety of sources. It is neither a survey nor a legal document. Information provided by other agencies should be verified with them where appropriate.