



**MEMORANDUM**

**TO:** Board of Zoning Adjustment  
**FROM:** Jennifer Steingasser, Deputy Director  
**DATE:** July 20, 2010  
**SUBJECT:** BZA Application #18091 – 5328 Gay Street, NE  
Square 5209, Lot 52

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**I. OP RECOMMENDATION**

The Office of Planning (OP) **recommends conditional approval** of the required variance relief:

- (§401) Permit a lot area of 2,500 square feet where 4,000 square feet are required;
- (§401) Permit a lot width of 25 feet where 40 feet are required;
- (§403) Permit a lot occupancy of 41.1% where a maximum of 40% is permitted;
- (§405.9) Permit side yards of 3 feet where 8 feet are required.

OP recommends that the approval be conditioned on the following:

1. The rear deck shall be lowered such that the floor of the deck is less than four feet above grade.
2. The tree at the front of the property shall be retained and protected during construction. Protection shall be accomplished by the following:
  - a. A line of secured, durable, protective fencing shall be erected along the following boundaries: at the drip line of the tree on the north; at the property line on the west; at the retaining wall on the south; and on a north-south line at the western edge of the existing curb cut, returning to the point of beginning.
  - b. If the fencing is damaged it shall be replaced within 24 hours.
  - c. No excavation shall be permitted within the fenced area.
  - d. No vehicles shall cross the fenced area.
  - e. No storage of materials shall be permitted within the fenced area.
3. The front of the front porch shall be in line with the front of the porch on the house to the west. However, any stairs leading to the porch may be located south of the porch.
4. The roof line of the house shall be front-gabled to match the houses on the east and west.

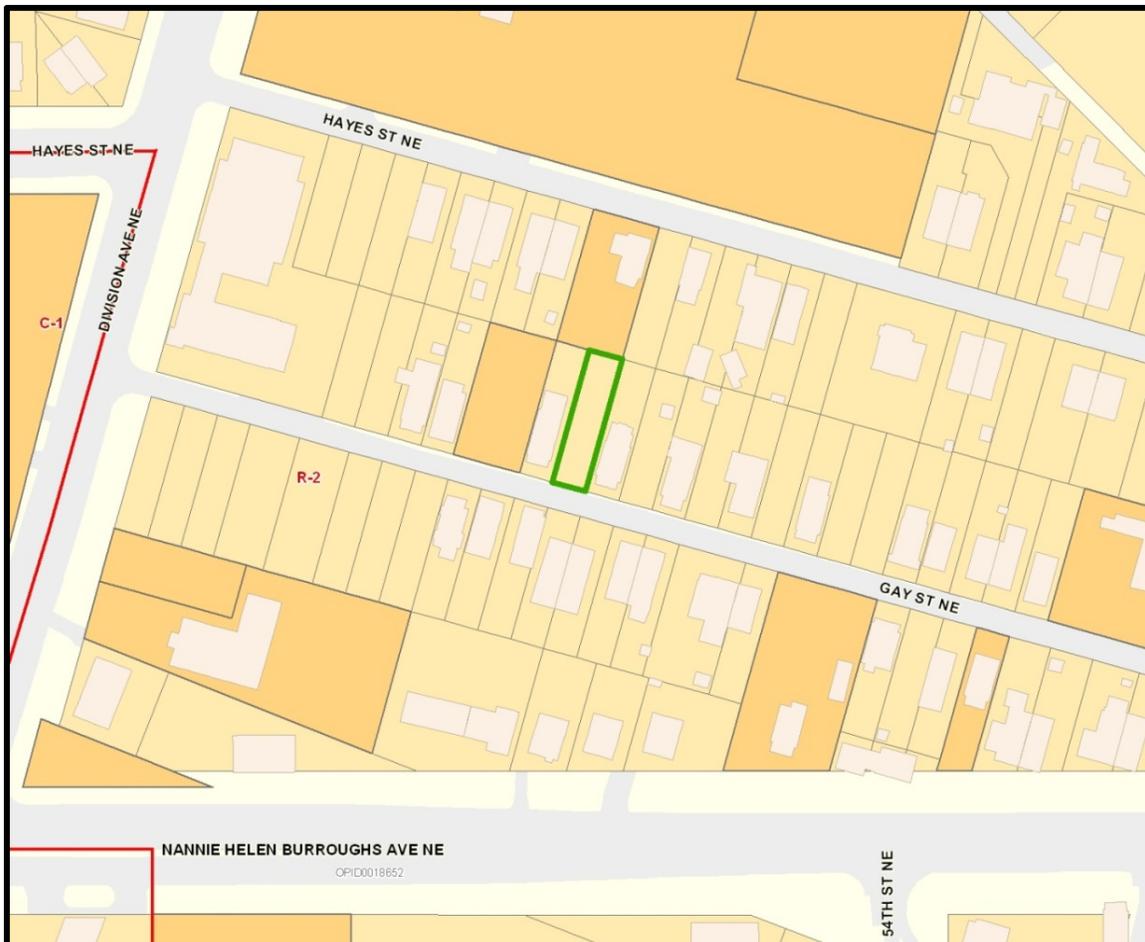
As proposed, the application meets on-site parking requirements via a curb cut to an internal, front-loaded garage. DDOT approval to retain the curb cut will be required. OP would support additional relief to eliminate the parking.

## II. APPLICATION-IN-BRIEF

**Applicant:** District Properties                      **Property:** Square 5209, Lot 52  
**ANC:** 7C    **Zoning:** R-2  
**Proposal:** Construct a new residence on a vacant lot at 5328 Gay Street, NE.

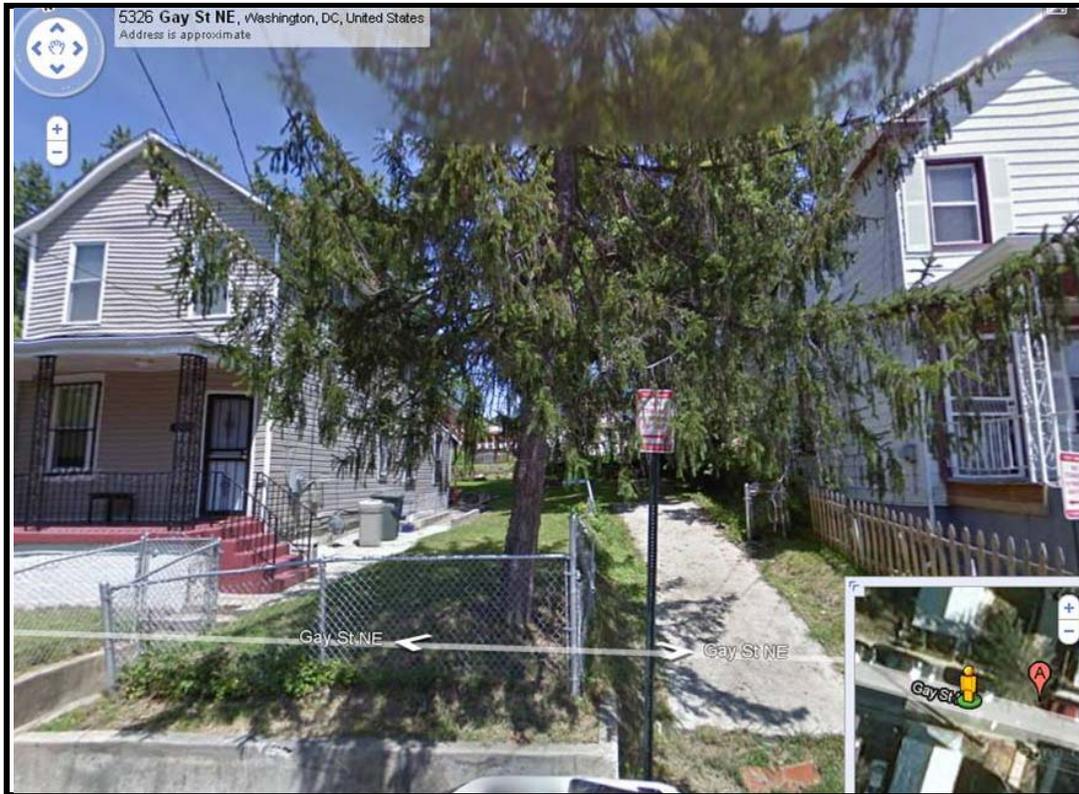
## III. SITE AND AREA DESCRIPTION

The subject property is on the north side of Gay Street, NE, east of Division Avenue and North of Nannie Helen Burroughs Avenue. The property, which slopes up slightly from a retaining wall at the front lot line, has no alley access. A large pine tree is located at the south end of the property near Gay Street. An existing curb cut and driveway are located on the property, and a chain-link fence, apparently installed by the adjacent property owner, encloses part of the property.



The neighborhood is primarily residential in character with a mix of single family detached and semi-detached dwellings that are built on lots equal in size to the subject lot – 25 feet wide by

100 feet deep. The narrowness of the lots results in houses with very narrow side yards. At the front, homes tend to be built near, but not at the right-of-way with an average setback of about ten feet to the front porch.



#### IV. ZONING

The site is zoned R-2. The table below lists the requirements of the R-2 zone and the parameters of the proposed development.

Item	Section	R-2	Proposed	Relief
Height	400	40' 3 Stories	29' 6" 3 Stories	Conforming
Lot Area	401	4,000 sf	<b>2,500 sf</b>	<b>Requested (Existing)</b>
Lot Width	401	40'	<b>25'</b>	<b>Requested (Existing)</b>
Lot Occupancy	403	40% 1000 sf	<b>45.6%</b> <b>1148 sf</b> <b>(Includes 3' side yards)</b>	<b>Required</b>
Rear Yard	404	20'	42'	Conforming
Side Yard	405	8' min.	<b>3'</b>	<b>Requested</b>

## V. ANALYSIS

In order to be granted a variance, the applicant must demonstrate how they meet the three-part test described in §3103.

- 1. Does the property exhibit specific uniqueness with respect to exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situations or conditions?**

The subject property exhibits unusual features. The lot was created prior to establishment of the 1958 zoning regulations and its width and area, at 25 feet and 2,500 square feet, respectively, are less than what would now be required.

### **Lot Area, Lot Width and Side Yard Variances**

- 2. Does the extraordinary or exceptional situation described in the first part of the variance test impose a practical difficulty which is unnecessarily burdensome to the applicant?**

The small dimensions of the lot create a practical difficulty for the applicant. The lot was created prior to the adoption of the current zoning regulations, and its width and area are smaller than would be permitted today. Lots on either side of the subject lot are developed, so there is no opportunity for re-subdivision to create a conforming lot. If relief is not granted, the lot would remain undevelopable, depriving the applicant reasonable economic use of the land and creating the burden of an unusable property.

The proposed house, if designed with eight foot yards on both sides, would be only nine feet wide. Side yard relief is required if a house of a usable width is to be constructed. The applicant, therefore, proposes two three-foot side yards and a house that is 19 feet wide.

- 3. Can the relief be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations and Map?**

Relief for lot width, lot area and side yard can be granted without detriment to the public good and without impairing the intent of the Regulations. While the Zoning Regulations intend to promote a specific pattern of development in the R-2 district, they did not intend to entirely prohibit the construction of a residential use on an existing lot. Furthermore, this development will replicate a historical development pattern in the neighborhood that includes detached or semi-detached homes on relatively narrow lots. Allowing construction of a residence on a vacant property will benefit the public by improving the appearance of the neighborhood and creating more eyes on the street.

## Lot Occupancy Variance

**2. Does the extraordinary or exceptional situation described in the first part of the variance test impose a practical difficulty which is unnecessarily burdensome to the applicant?**

The small size of the lot creates a practical difficulty for the applicant. The applicant seeks to construct a home of a size acceptable to homeowners and characteristic of the area. This leads to a footprint that would slightly exceed the maximum lot occupancy allowed in the R-2 district. Creating a home with a smaller footprint and smaller rooms could make it more difficult to market the house. The lot occupancy would be reduced if the lot were wider and the side yards did not count towards building area.

**3. Can the relief be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations and Map?**

Relief can be granted without detriment to the public good and without impairing the intent of the Regulations. The Regulations intend to control the bulk of structures in residential neighborhoods by limiting lot occupancy. However, the Regulations do not intend to prohibit a usable footprint when that design does not impede light and air and privacy available to neighboring properties.

Nevertheless, the Office of Planning has worked with the applicant to reduce the lot occupancy of the development. As originally proposed, the deck would have counted toward lot occupancy because it was over four feet above grade. At OP's suggestion the applicant has agreed to lower the deck so that it no longer counts toward lot occupancy. Without the deck, which is 120 square feet in size, the lot occupancy would be 41.1%, or 28 square feet over the threshold of lot occupancy. This slight deviation from the standard is acceptable given the lot size and that homes in the neighborhood are of a similar size. Until such time as revised plans are received, OP recommends that lowering the deck be made a condition of approval.

The Office of Planning has worked with the applicant to refine the design in other ways so that the house fits better with the neighborhood. The applicant has agreed to:

1. Maintain the evergreen tree in the front of the property;
2. Set back the house four additional feet to align the front porch with the neighbor's front porch;
3. Continue east of the bay window the brick belt course between the 2<sup>nd</sup> and 3<sup>rd</sup> floors;
4. Add windows to the side façades;
5. Add window trim to the windows on the side and rear façades.

The applicant also stated that he will examine the feasibility of the following design changes:

6. Revising the roof line so that it matches the neighbors with a front-gabled roof;
7. Adding a brick return on the side walls so the brick does not end right at the corner.

OP has seen preliminary plans that make most of these changes, and expects final plans to be submitted to the official record prior to the public hearing. Until such time as new drawings are submitted, OP recommends that items 1, 2 and 6 be made conditions of approval. Maintaining the tree at the front of the property will soften the appearance of the house and the street as a whole. Aligning with the neighbor's porch and matching the neighbors' roof lines will help the structure blend with the architectural character of the adjacent homes and other homes on the street. OP also suggested removing the garage and curb cut from the design, but the applicant stated that the garage was necessary to market the house. However, approval to retain the curb cut will be required from DDOT. OP would encourage the applicant to remove the front loaded garage and curb cut and request parking relief. Because on-street parking would increase, such relief would have no net impact on parking availability.

## **VI. HISTORIC PRESERVATION**

The subject property is not located in an historic district.

## **VI. OTHER DISTRICT AGENCY REPORTS**

The Office of Planning has not received reports from any other District agency.

## **VII. COMMUNITY COMMENTS**

As of this writing, the Office of Planning has received no comments regarding the proposal from neighbors or from ANC 7C.

JS/mrj

Matt Jesick, Project Manager