



MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Jennifer Steingasser, Deputy Director Development Review & Historic Preservation

DATE: October 12, 2010

SUBJECT: BZA Case No. 18115, 3603 13th Street NW (Square 2829, Lot 59)

I. SUMMARY RECOMMENDATION

The Office of Planning (OP) **cannot recommend approval** of the variance request to convert an existing structure into a three-unit apartment building, for relief from the following:

- ❖ § 401 – Lot area (2,700 sq. ft. required; 1,800 sq. ft. proposed).
- ❖ § 403 – Lot occupancy (60% permitted; 71% proposed)
- ❖ § 406 – Court width (15’ required; 3’ proposed)
- ❖ § 2101 – Off-street parking (1 space required; 0 spaces proposed)

The applicants have requested variance relief from § 403, however OP suggests that relief from § 2001.3 would be more appropriate, given the existing non-conforming characteristics of the building and the proposed construction.

II. AREA AND SITE DESCRIPTION

Address:	3603 13 th Street NW
Legal Description:	Square 2829, Lot 59
Ward:	1
Lot Characteristics:	1,800 square foot rectangular lot with no public alley access, located near the northeast corner of Otis and 13th Streets NW
Existing Development:	Two-story, brick and masonry building
Zoning:	R-4 – Row dwellings and flats permitted
Adjacent Properties:	North and East: 2-story single-family residential; South: 2-story vacant residential building; West: 3-story multi-family residential building
Surrounding Neighborhood Character:	Low to moderate density residential buildings and institutional uses. Largely rowhouses with some multi-family residential buildings. C-2-A zones to the west along 14 th Street and southeast of the site along 11 th Street.



III. APPLICATION IN BRIEF:

Mr. Richard Klugman, property owner, has requested zoning relief to construct a third floor addition to the existing structure at 3603 13th Street NW. The proposal also includes converting the building, formerly used as a rooming house, into a three-unit apartment building. The building’s most recent certificate of occupancy authorized a rooming house which, according to the owner, was the use of the structure for over 10 years. The building is located near the northeast corner of Otis and 13th Streets NW. The property does not currently have any off-street parking spaces or alley access. The proposal would create two (2) one-bedroom lower level apartments, located on the basement and first floors, and a two-level upper unit, which would be owner occupied.



Google Maps View of subject property from 13th Street NW

IV. REQUESTED RELIEF

The applicant requests variance relief from lot area, lot occupancy, court width, and off-street parking requirements to allow a three-unit apartment conversion and third floor addition. OP believes that relief from requirements for additions to non-conforming structures is also needed.

Table 1 –Zoning Analysis of the Project

Standard	R-4 Requirement	Existing Property	Proposed Construction	Relief Required
<i>Lot Area</i>	<i>900 s.f./unit or 2,700 sq. ft.</i>	<i>1,800 sq. ft.</i>	<i>1,800 sq. ft. No change</i>	<i>Yes</i>
<i>Lot Coverage</i>	<i>60% (1,080 sq. ft.)</i>	<i>71% (1,291 sq. ft.)</i>	<i>71% (1,291 sq. ft.)</i>	<i>Yes</i>
<i>Closed Court Width</i>	<i>15'</i>	<i>3'</i>	<i>3'</i>	<i>Yes</i>
Building Height	40' / 3 stories	2 stories	3 stories	No
<i>Parking</i>	<i>1 space per 3 d.u.</i>	<i>0 spaces</i>	<i>0 spaces</i>	<i>Yes</i>

V. OFFICE OF PLANNING ANALYSIS

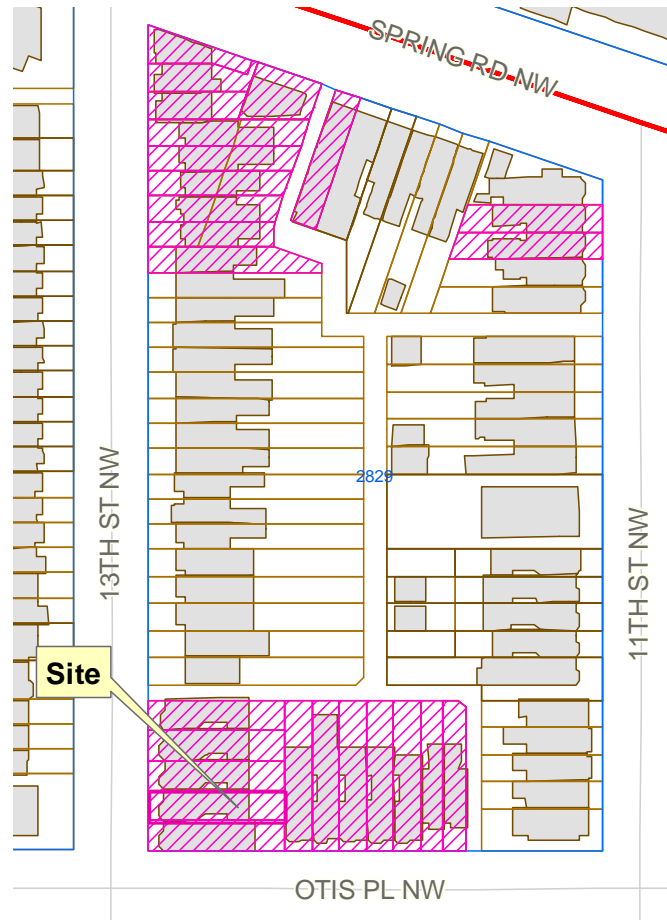
An analysis of the project against the relevant variance criteria is provided below. The requested variance relief must satisfy the following criteria for area variances:

1. Is the property unique due to:
 - a. Exceptional narrowness, shallowness, or shape at the time of original zoning regulation adoption,
 - b. Exceptional topographical conditions, or
 - c. Other extraordinary or exceptional situation?

The property is rectangular in shape and one of several similarly-sized and shaped lots on the subject square. The existing building was originally constructed in 1909 and does not meet the current lot occupancy or court width requirements for the R-4 zone. However this is not a unique occurrence within the square. The property has no significant grade changes and is one of 11 lots within the square with no alley access. The property is 20 feet wide by 90 feet deep, measuring 1,800 square feet.

Approximately 25 improved lots within the square are 1800 square feet or less, as shown in pink hatching on the map to the right. The building, previously used as a rooming house, has 2 floors and a basement with a total of 12 bedrooms and three bathrooms. The first and second floors are improved with kitchens.

Given the lack of any unique physical characteristics of the lot and no supporting information discussing any other extraordinary circumstances affecting the property, the site does not meet the first part of the variance test.



Map highlighting lots in Square 2829 with 1800 sq. ft. or less

2. Does the uniqueness, in combination with the zoning regulations, result in peculiar and exceptional practical difficulties to the owner?

Lot Area

As noted above, the property is not unique. While the existing property currently does not meet several R-4 requirements, these characteristics are not unique or exceptional, and an existing non-conformity does not constitute a practical difficulty in and of itself (i.e. without other extenuating circumstances). The applicant requests zoning relief to allow conversion of an existing residential structure to a three-unit apartment building. Despite the fact that the previously approved use of the building was for a rooming house, the requested conversion would exceed the permitted development density for the site.

The applicant cites a financial hardship as the justification for the additional dwelling units due to construction costs and the current condition of the building. However, there are no apparent unique characteristics or circumstances affecting the property that directly relate to the financial hardship described. The property's size, while among the smaller lots within the square, is not unique or exceptional, as evidenced by the presence of two dozen other properties of a similar size or less. In addition, the lack of alley access or off-street parking for the property bears no relationship to the lot area requirements for a three-unit apartment building. Finally, the current physical configuration of the existing building does not preclude its use for a flat, which would be

permitted as a matter of right, and eliminate the need for the third story addition and subsequent zoning relief.

The applicant references the presence of other apartment buildings in the area located on lots without the required area as a basis for granting the requested variances. With regard to the presence of existing apartment buildings on nonconforming lots, OP found no evidence of whether they were constructed or converted to apartment use prior to the adoption of the current zoning regulations or with the benefit of a building permit and zoning review. Despite this, the presence of a similar condition elsewhere on the block does not constitute a practical difficulty that restricts the subject property owner from compliance with the existing regulations. To the contrary, the continued apartment conversion conflicts with the stated purpose of the R-4 zone.

Remaining Zoning Relief Requested

The requested zoning relief for the remaining requirements stem directly from the proposed third story addition and apartment conversion. Since the property does not meet the first prong of the variance test, no nexus to a practical difficulty has been established. However, should the BZA find that the proposal exhibits unique or exceptional features, an analysis of the remaining zoning relief is provided below.

Lot occupancy/Addition to non-conforming structure

The property was built prior to the adoption of the 1958 zoning regulations and has a nonconforming lot occupancy of 71%. As a result, the size of the existing improvements would prevent future building additions without zoning relief. In addition, the existing lot occupancy would not increase as a result of the proposed construction.

Court Width

The proposed project would extend the height of an existing non-conforming 3' wide closed court. The 1958 Zoning Regulations created dimensions for court widths that were greater than those of the existing building, constructed in 1909. Without zoning relief, the owner would be incapable of extending this court vertically, which would continue to provide access to light and air for the first two levels of the building. However, the applicant could eliminate the court in the proposed addition and the need for court width relief altogether, as side yards are not required in the R-4 zone.

Off-street Parking

The subject lot was created prior to the existing Zoning Regulations, without the benefit of vehicular access to a public alley. The proposal requires a single off-street parking space while the property currently does not provide any. The property is located within a portion of the square that has no public alley and the lot has no curb cut. In addition, the lot width combined with the location of the existing building on the lot would make it difficult to create and provide access to a compliant off-street parking space on the property.

3. Does granting the variance result in a substantial detriment to the public good or will it substantially impair the intent, purpose, and integrity of the zone plan?

Lot Area

The requested relief could be granted without substantial detriment to the public good. The proposal would also result in a change of use from a 12-unit rooming house to a three-unit

apartment building. The proposal would improve a deteriorated, vacant structure, has been designed to incorporate sustainable building features, and would utilize quality building materials. Granting relief, however, would impair the intent of the Zoning Regulations. In particular, it would impact the purpose and integrity of the R-4 zone and the minimum lot area provisions found in §401.1. The purpose of the R-4 zone is to stabilize low-density, single-family residential areas by allowing new construction of single-family and two-unit buildings. Multi-family residential conversions are permitted only when the lot is large enough to accommodate the number of units requested, and additions to existing structures to expand the number of units are explicitly prohibited. The Zoning Regulations explicitly state (at Section 330.3) that “*The R-4 District shall not be an apartment house district as contemplated under the General Residence (R-5) Districts, since the conversion of existing structures shall be controlled by a minimum lot area per family requirement.*” [emphasis added]

In addition, §401.1 states “...the lot area requirements of § 401.3 must be met when the building is being converted to a use or replaced by a building intended to house a use that would require more lot area or lot width than is on the building’s lot”. This text was recently amended to explicitly clarify that multi-family residential conversions are subject to minimum lot area requirements regardless of whether or not the change of use is accompanied by a building addition. The purpose of the text change was to prevent the conversion of non-conforming rowhouses into more intensive uses and preserve the character of the R-4 zone. The Regulations allow for a reasonable use of the land given that a flat is a matter-of-right use and could be accommodated within the existing building.

Remaining Zoning Relief Requested

The requested variances to court width, lot occupancy, off-street parking requirements, and consequently, additions to non-conforming structures could be granted without substantial impairment to the Zoning Regulations or public good. The Zoning Regulations permit structures within the R-4 zone to have a 0’ side yard. The proposal would maintain an existing 3’ wide court and the access to light and air that it provides the existing units without increasing the building footprint. The proposed building addition would not increase existing lot occupancy on the site and the proposed third story would have a smaller building footprint as compared to the lower floors. Approval of the off-street parking variance should not result in any substantial detriment to the public good since the site is well served by public transit. In addition, the proposed change in use from a rooming house to a conforming use would likely reduce its parking demand and the amount of vehicular traffic within the neighborhood. Relief from this requirement should also not impair the integrity of the zone plan as it supports reduced parking requirements on sites near Metro stations.

VI. AGENCY COMMENTS

DDOT: Early conversations with DDOT staff about the project did not highlight any concerns with the proposal or request for parking relief.

VII. COMMUNITY COMMENTS

ANC 1A discussed the request at their June 9, 2010 meeting, and voted to recommend approval of the requested zoning relief. In addition, the applicant has provided letters of support from adjacent neighbors to the immediate north, south, and east as well an adjacent neighbor across 13th street to the west.

VIII. CONCLUSION AND RECOMMENDATION

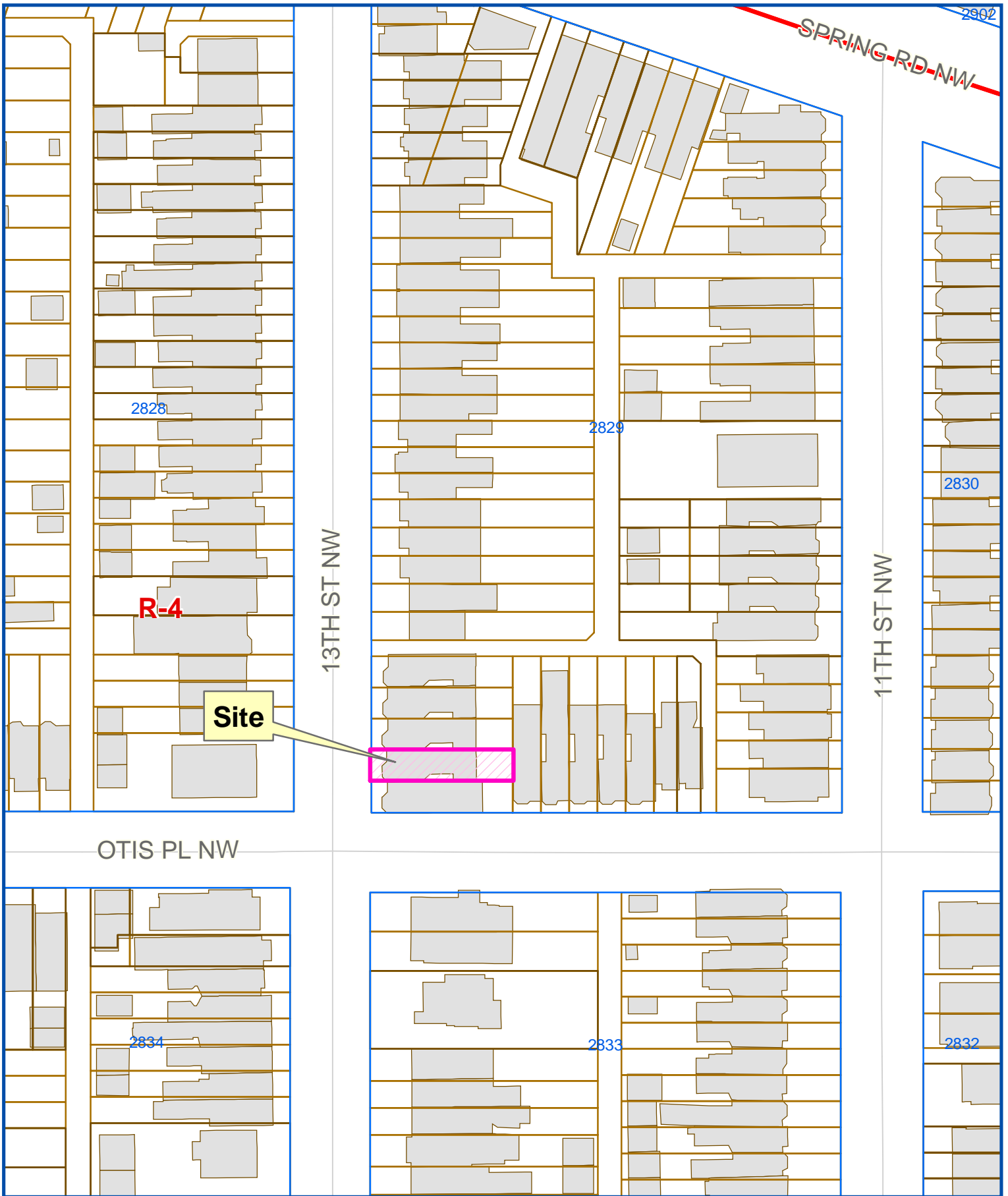
OP cannot recommend **approval** of the requested variances to allow the establishment of a three-unit apartment building and notes that a flat could be accommodated. Should the BZA find that the project meets the first criteria of the variance test, OP finds that the remaining relief could be granted without detriment to the public good or zone plan.

JS/ajj

Arlova Jackson, Project Manager

Attachments:

1. Location map
2. Aerial photograph



BZA 18115 - 3603 13th Street NW Exhibit 1 - Location Map

Legend

- Zoning Districts
- Buildings
- Tax Lots
- Street Centerlines
- Record Lots

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. Oblique imagery © Pictometry International

DC Office of Planning





**BZA 18115 - 3603 13th Street NW
Exhibit 2 - Aerial Photograph (2009)**

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