



**MEMORANDUM**

**TO:** District of Columbia Board of Zoning Adjustment  
**FROM:** Jennifer Steingasser, Deputy Director  
**DATE:** July 6, 2010  
**SUBJECT:** BZA Application 18082, 1019 Florida Avenue, N.E., Square 956, Lot 39

**SUMMARY RECOMMENDATION**

The Office of Planning (OP) recommends **DENIAL** of:

- **An area variance to § 403.2 of Title 11 DCMR** to increase the lot occupancy from 60 to 96 percent (78 percent existing);
- **An area variance to § 404.1 of Title 11 DCMR** to decrease the rear yard from 20 feet to 2.5 feet (18 feet existing); and
- **An area variance to § 2001.3 of Title 11 DCMR** to permit the enlargement of a nonconforming structure.

**AREA AND SITE DESCRIPTION**

Address	1019 Florida Avenue, N.E.
Legal Description	Square 956, Lot 39
Ward	6
Lot Characteristics	Rectangular lot, with alley access.
Existing Development	Two-story row house
Zoning	R-4 – row dwellings, conversions and apartments
Historic District	None
Adjacent Properties	North: Across Florida Avenue, a church East, West & South: Row houses and flats
Surrounding Neighborhood Character	Primarily residential, with some institutional uses north of Florida Avenue, including Gallaudet University.

**APPLICATION IN BRIEF**

The applicants propose to construct a rear addition onto the existing row house. The addition would include a new deck that would be connected to the existing rear porch via an eight-foot wide staircase. The existing staircase down to the rear yard would be retained as access to a carport that would be created under the new deck for the parking of one vehicle. A rear yard of 2.5 feet would be provided, between the new deck and an existing roll-up gate along the alley.





Zoning and Vicinity Map

**LOT AND AREA DESCRIPTION**

The subject property is a two-story row house constructed in 1900 and located on the south side of Florida Avenue, between 10<sup>th</sup> Street and 11<sup>th</sup> Street. Similar structures are the predominant use on the south side of Florida Avenue. The north side of Florida Avenue, in addition to residential structures, also includes some retail, churches and Gallaudet University west of West Virginia Avenue. The remainder of the subject square is improved with either two-story row houses or flats within the R-4 district.

On-street parking is not permitted on Florida Avenue, except on Sundays, between 7:00 and 10:00 am. Parking on surrounding neighborhood streets is limited to two hours, with the exception of vehicles displaying Residential Parking Permit stickers for zones five or six. Most dwellings within the square utilize the rear yard for off-street parking, similar to the subject property. The subject property is currently improved with a rear porch, with steps down to the rear yard, and one open parking space protected by an existing solid roll-down gate.

**ZONING REQUIREMENTS and REQUESTED RELIEF**

	<i>Permitted/ Required</i>	<i>Existing</i>	<i>Proposed</i>	<i>Relief</i>
<b>Rear Yard (min.)</b>	20 feet	18 feet	2.5 feet	17.5 feet
<b>Lot Occupancy (max.)</b>	60 percent	78 percent	96 percent	36 percent

## OFFICE OF PLANNING ANALYSIS

Relief from the following sections is required by the subject application.

### **Area Variance to § 403.2 – Lot Occupancy**

Section 403.2 sets the maximum lot occupancy within the R-4 district for row houses at 60 percent. The subject application proposes to increase the existing lot occupancy from 78 to 96 percent.

### **Area variance to § 404.1 - Rear Yard**

Section 404.1 sets the minimum rear yard within the R-4 district at 20 feet. The subject application proposes to decrease the existing rear yard from 18 to 2.5 feet.

### **Area variance to § 2001.3 – Nonconforming Structures Devoted to Conforming Uses**

Section 2001.3 provides that additions to nonconforming structures devoted to conforming uses, such as the subject application, not increase any nonconforming aspect of the structure. In this case the application proposes to further reduce the nonconforming rear yard from 18 feet to 2.5 feet, and further increase the nonconforming lot occupancy from 78 to 96 percent.

### Uniqueness Resulting in Practical Difficulty

The subject property's shape, size and topography do not exhibit a specific uniqueness as required under part one of the variance test. The property's dimensions are not remarkable. It is 16 feet in width, 1,200 square feet in area and rectangular in shape, as are the adjoining lots on either side. It is also relatively level and improved with a row house with alley access, again the same as the adjoining lots. Seventy percent of the lots within the square are either the same size or smaller than the subject property. That the current dwelling is overbuilt on the lot, meaning that it exceeds lot occupancy and does not provide the minimum rear yard, does not itself create specific uniqueness under the variance review. Neither does the location of the property in an area with a high crime rate, as stated in the application.

All of the lots within the square are improved as row houses or flats, with most using the rear yard for off-street parking, similar to the subject property. Others utilize the rear yard as open space. The Office of Planning concludes that there is nothing unique about the subject property that would result in a practical difficulty. It is not a practical difficulty to not be able to use a rear yard for both parking and recreation.

### Impact on the Integrity of the Zone Plan

The proposal is also contrary to the intent of the Zoning Regulations. The existing dwelling exceeds the allowable lot occupancy at 78 percent and at 18 feet, fails to provide the minimum required rear yard. The proposal would substantially increase the lot occupancy to 96 percent and substantially reduce the rear yard to only 2.5 feet.

The Office of Planning notes the guidance found in § 2001, titled "Nonconforming Structures Devoted to Conforming Uses." Specifically, § 2001.3 provides that:

*2001.3 Enlargements or additions may be made to the structure, provided:*

- (a) The structure shall conform to percentage of lot occupancy requirements, except as provided in § 2001.13.*
- (b) The addition or enlargement itself shall:
  - (1) Conform to use and structure requirements; and*
  - (2) Neither increase or extend any existing, nonconforming aspect of the structure; nor create any new nonconformity of structure and addition combined.**

Subsection 2001.3 only allows additions which do not violate applicable lot occupancy requirements and which do not create new nonconformities or increases in existing nonconformities. The provision is intended to prevent excessive development on existing lots and to preserve residential yards and maintain open space. As a result, the Office of Planning finds that the applicant's proposal for substantial relief from lot occupancy and rear yard requirements contrary to the intent of the Zoning Regulations.

Impact on Public Good

Although the neighbors on either side of the subject property have indicated their support of the application, the impact of 96 percent lot occupancy and a 2.5-foot rear yard would negatively impact the public good. Together, these two variances almost totally eliminate any open space behind the dwelling. With no uniqueness or practical difficulty exhibited by the subject property, these variances have the potential to fill in the central portion of the square with structures, resulting in a crowding of the alley system and the elimination of the moderate density feel that the R-4 otherwise is intended to provide.

**COMMUNITY COMMENTS**

**ANC 6A**, at its regularly scheduled meeting of April 9, 2010, voted to support the application.

Adjoining neighbors of the subject property at 1017 and 1021 Florida Avenue, NE, submitted a statement in support of the application.

**RECOMMENDATION**

The Office of Planning must review the application in terms of the property's zoning, the intensity of use and the standards for variance relief. In this case there is nothing unique about the subject property that would result in a practical difficulty. Therefore, the Office of Planning recommends **DENIAL** of the application.

JS/sjm<sup>AICP</sup>  
Case Manager: Stephen J. Mordfin, AICP