



**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OFFICE OF THE ZONING ADMINISTRATOR**

May 11, 2020

Via Emailed PDF

Martin P. Sullivan
Sullivan & Barros, LLP
1155 15th Street, NW, Suite 1003
Washington, DC 20005

**Re: Minor Deviation Determination Letter-1312 Constitution Avenue, NE
(Square 1033, Lot 30) (the “Property”)**

Dear Mr. Sullivan:

You have asked me for a determination letter regarding a request for a minor deviation from lot occupancy for the property located at 1312 Constitution Avenue, NE (Square 1033, Lot 30), in the RF-1 zone district.

Lot Occupancy

You have asked for my approval of a request for a minor deviation from the maximum lot occupancy requirements of the RF-1 zone, so that you may provide a lot occupancy of sixty-point seven percent (61.7%).

Pursuant to 11-A DCMR § 304.2(a) of the 2016 Zoning Regulations, the Zoning Administrator is authorized to permit a deviation not to exceed two percent (2%) of the maximum percentage of lot occupancy, provided that the deviation will not impair the purpose of the otherwise applicable regulations. The maximum permitted lot occupancy in the RF-1 zone is sixty percent (60%). In this case, you are proposing to construct a new building with a lot occupancy of sixty-one-point seven percent (61.7%). These proposed lot occupancy percentage does not exceed two percent (2%) of the maximum percentage of lot occupancy. The additional one-point seven percent (1.7%) lot occupancy results in an additional twenty-eight-point nine square feet (28.9 sq. ft.) of building area.

In accordance with 11-A DCMR § 304.3, I have considered the following issues in determining that the deviation would not impair the purpose of the otherwise applicable regulations:

- (a) The light and air available to neighboring properties shall not be unduly affected;

- (b) The privacy of neighboring properties shall not be unduly compromised;
- (c) The level of noise in the neighborhood shall not be unduly increased;
- (d) The use and enjoyment of neighboring properties shall not be unduly compromised;
- (e) No trees which would otherwise be protected by this title or other District of Columbia regulation, shall be damaged or removed; and
- (f) The general scale and pattern of buildings on the subject street frontage and the neighborhood shall be maintained consistent with the development standards of [the Zoning Regulations].

I have determined that the proposed deviation meet the above requirements, as described below:

(a) Providing a lot occupancy of sixty-one-point seven percent (61.7%) would not materially impact the size and scale of the proposed building. The additional lot occupancy results in a total additional building area of twenty-eight-point nine square feet (28.9 sq. ft.), effectively at the rear of the building, and the rear yard requirement is still met. This square footage amounts to approximately 1.4 feet of additional building length. Accordingly, I have determined that the light and air available to neighboring properties would not be unduly affected by the deviation.

(b) As noted in the above paragraph, the overall scale and size of the proposed building would not change materially if the deviation is granted. The additional lot occupancy results in a total additional building area of twenty-eight-point nine square feet (28.9 sq. ft.), effectively at the rear of the building, and no additional windows or balconies are being added in the 1.4 feet of additional length of the building. Accordingly, I have determined that the privacy of neighboring properties will not be unduly compromised by the requested minor deviation.

(c) The minor deviation does not provide any significant additional living space and will not increase the overall density or proposed use as a single-family dwelling. For this reason, the level of noise in the neighborhood will not be unduly increased.

(d) For the reasons stated in (a) – (c), the use and enjoyment of neighboring properties will not be unduly compromised by the minor deviation.

(e) No trees will be damaged or removed because of the minor deviation.

(f) The deviation will result in approximately 1.4 feet of additional length in building area at the rear of the Property. Therefore, the general scale and pattern of buildings on

the subject street frontage will be maintained consistent with the development standards of the zoning regulations.

For the above reasons, I have determined that the requested deviation will not impair the purpose of the otherwise applicable regulations, in accordance with A-304.3 (a) – (f). In addition, the requested deviation amounts comply with the percentage limits within A-304.2(a). Therefore, my determination is to approve the herein-requested minor deviation.

Please feel free to contact me if you have any questions.

Sincerely, *Matthew Le Grant*
Matthew Le Grant
Zoning Administrator

Enclosures- Plat

This letter is issued in reliance upon, and therefore limited to, the questions asked, and documents submitted in support of the request for a determination. The determinations reached in this letter are made based on the information supplied, and the laws, regulations, and policy in effect as of the date of this letter. Changes in the applicable laws, regulations, or policy, or new information or evidence, may result in a different determination. This letter is **NOT** a “final writing”, as used in Section Y-302.1 of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations), nor a final decision of the Zoning Administrator that may be appealed under Section Y-302.1 of the Zoning Regulations, but instead is an advisory statement of how the Zoning Administrator would rule on an application if reviewed as of the date of this letter based on the information submitted for the Zoning Administrator’s review. Therefore, this letter does **NOT** vest an application for zoning or other DCRA approval process (including any vesting provision established under the Zoning Regulations unless specified otherwise therein), which may only occur as part of the review of an application submitted to DCRA.