



DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

December 6, 2019

OFFICE OF THE ZONING ADMINISTRATOR

Samantha Mazo  
Cozen O'Connor  
1200 19<sup>th</sup> St. NW, Third Fl.  
Washington DC, 20036

**Re: 1630 28<sup>th</sup> St. SE - Square 5584, Lots 68 and 97 (the "Property"): Approval of 2% Lot Occupancy Deviation Pursuant to Subtitle A § 304.2(a)**

Dear Ms. Mazo,

This letter is in reference to a meeting I had with you on July 29, 2019 regarding your client's proposed subdivision of the Property into four, new record lots (the "Subdivision").

The Property is known as Lots 68 and 97 in Square 5584. It is 7,309.89 square feet in size and is located in the RF-1 zone. A copy of the Property's zoning map is attached as Exhibit "A". The Property is not located within a Historic District.

Lot 68 is rectangular in shape and contains an existing garage structure to the east. Lot 97 is a rectangular corner lot containing a two-story, one-family dwelling, which is oriented towards 28<sup>th</sup> Street. The Property is bounded by an apartment house to the north (which faces 28<sup>th</sup> Street), a 15-foot alley in the rear to the east, R Street SE to the south, and 28<sup>th</sup> Street SE to the west. The square consists of apartment houses, attached dwellings, semi-detached dwellings and row dwellings. Images of the surrounding pattern of development are attached here at Exhibit "B".

Based on our conversation, my understanding is that your client intends to raze the existing structures on the Property. I understand that a raze permit application has been submitted. Any such raze permit (when issued) would need to adhere to the requirements of DCRA's "Guidelines for Raze Permit" consistent with 2013 DCMR 12A § 105.1.7 *etc* (as amended from time to time). This office does not review issue raze permits, and this letter does not authorize and/or opine on the ability of DCRA to issue the necessary raze permit.

Rather, this letter relates solely to your client's intended subdivision of existing lot Lots 68 and 97 into four new lots of record.<sup>1</sup> In order to facilitate ingress/egress via the existing alley to the

---

<sup>1</sup> It is anticipated that flats would be constructed on each of the new lots. Flats are permitted as a matter of right provided they comply with the RF-1 Zone Development Standards established at Subtitle E §§ 200 - 306 *etc*. However, this office has not reviewed detailed feasibility plans for the construction of such flats and cannot confirm the zoning compliance of anticipated potential development on the new lots.

east, the four new lots are proposed to be oriented with frontage along 28<sup>th</sup> Street SE, consistent with the existing fabric of the structures along 28<sup>th</sup> Street.<sup>2</sup>

The Property is 70.75 feet in width along 28<sup>th</sup> Street SE and so each new lot will provide approximately 17.69 feet in width. Row dwellings or flats in the RF-1 zone are required to provide a minimum of 18 feet in width. *See* Subtitle E § 201.1 and chart below:

<b>Development Standard</b>	<b>Requirement (RF-1)</b>	<b>Proposed</b>	<b>Deviation</b>
Lot width	18 ft. (row dwelling or flat)	17.69 ft. (each)	0.31 ft. (2.58 in.); 1.72%
Lot area	1,800 sq ft.	1,827 sq ft. (each)	N/A

As a result, while the four lots will satisfy the zone’s Lot Area requirement, each of the new four lots is proposed to deviate from the lot width requirement by 1.72% (.31 ft./18 ft.). Accordingly, because the degree of non-conformity is less than 2% of the linear requirements governing minimum lot width, my office is authorized to grant a Minor Deviation pursuant to Subtitle A § 304.2(b) after reviewing the evaluation criteria provided under Subtitle A § 304.3.

In summary, I found the following:

**The Subdivision Satisfies the Requirements of Subtitle A § 304.3**

As shown on the proposed lot subdivision diagram at **Exhibit “C”**, the Subdivision proposes four new lots of record. Each lot could contain a flat that satisfies the zoning regulations for the RF-1 Zone. *See* Subtitle E §§ 200 - 306 *etc*; Subtitle U § 301.1.

*Lot Width*

Pursuant to Subtitle E § 201.1, the minimum lot width requirement is dependent upon building type in the RF-1 zone. For row dwellings or flats, the requirement is 18 ft. Each proposed lot measures 17.69 feet in width and 103.32 feet in depth, each thereby containing approximately 1,827 sq ft. of land area.

Pursuant to Subtitle A § 304.2, the Zoning Administrator is authorized to allow certain deviations from the zoning requirements “for building permits that are not otherwise authorized by an approved order of the Zoning Commission, if the Zoning Administrator determines that the deviation or deviations will not impair the purposes of the otherwise applicable regulations.” Moreover, Subtitle A § 304.2(b) permits “deviations not to exceed **the lesser of two percent (2%) or twelve inches (12 in.)** of the linear requirements governing minimum lot width.” (Emphasis added)

---

<sup>2</sup> Separately, a four-lot subdivision oriented along R Street would satisfy the zone’s lot-width requirement. However, that orientation is not preferable because the new lots would not have direct rear alley access, and it would be less consistent with the location of homes along 28<sup>th</sup> Street SE.

Your client has formally requested minor flexibility from the linear requirements governing minimum lot width for the Project which is less than 2% or 12 inches of the requirement. Under Subtitle A § 304.3, I am required to consider the following issues in determining that a deviation will not impair the purpose of the applicable regulations:

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

As stated above, the Project only deviates by approximately 0.31 ft. (2.58 in.), which equates to 1.72% of the requirement. The Subdivision provides for four lots that are intended to be developed with four flats. A 15-foot wide alley exists to the rear. The southern-most lot will be a corner lot, which will not have any neighbors. Also, the apartment building at 1624-1626 28<sup>th</sup> Street SE to the north appears to have an approximately 18'+- side yard that would not be impacted by the Subdivision.

As noted, a four-lot subdivision oriented to face R Street would satisfy the lot width requirement. However, your client posits that the proposed 28<sup>th</sup> Street orientation of the Subdivision is preferable because it allows all four lots to have direct access to the alley, and this orientation would be more consistent with other development along 28<sup>th</sup> Street. Based on the information provided, I would agree. Consequently, this minor deviation does not affect the light and air available to neighboring properties.

*304.3(b) – The privacy of neighboring properties shall not be unduly compromised;*

Similar to the above, the requested deviation shall not unduly compromise the privacy of the neighboring properties. The 1624-1626 28<sup>th</sup> Street SE apartment house to the north will continue to be located approximately 18+ feet from the lot line of the northern-most proposed lot. The southern-most lot will be a corner lot bounded by two streets and significant public space. A 15-foot wide alley exists to the rear. Accordingly, the minimal deviation in lot width requested here shall not unduly compromise the privacy of neighboring properties.

*304.3(c) – The level of noise in the neighborhood shall not be unduly increased;*

The Subdivision would allow for construction of a residential development of flats that is consistent with the RF-1 zone requirements. The Subdivision adheres to the character of the neighborhood, which includes residential uses. Additionally, as described above, the Subdivision could allow for flats that would not abut any existing buildings, which further protects against an increase in noise. Also, a four-lot subdivision would be possible without administrative approval, but would require R Street orientation, which is not preferable. Accordingly, the minimal allowance for lot width here will not unduly increase the level of noise in the neighborhood.

*304.3(d) – The use and enjoyment of neighboring properties shall not be unduly compromised;*

Again, the Subdivision would promote the current character of the neighborhood by allowing for residential development through buildings that would satisfy the matter-of-right requirements of the RF-1 zone. Accordingly, as a four-lot subdivision would be permissible if it were oriented towards R Street – allowing the creation of four flats at this intersection, the minimal lot width

deviation necessary for the proposed, 28<sup>th</sup> Street orientation of the Subdivision will not unduly compromise the use and enjoyment of neighboring properties.

*304.3(e) – No trees which would otherwise be protected by this title or other District of Columbia regulation, shall be damaged or removed; and*

No protected trees will be altered or removed as a result of the lot width deviation.

*304.3(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 this title.*

The Subdivision will provide four new lots facing 28<sup>th</sup> Street. Each lot could contain a new row dwelling or flat. Row dwellings or flats are permitted as a matter-of-right in the zone. Further, residential dwellings – including apartment houses, attached dwellings and detached dwellings, currently are oriented towards 28<sup>th</sup> St. SE both to the north and south of the Property. As a result, the Project will preserve the general scale, orientation and pattern of buildings on the subject street frontage. Moreover, the creation of four new record lots will be consistent with the pattern of development in the neighborhood, which also contains similarly-sized lots and pattern of residential buildings. Indeed, there are attached row dwellings directly to the east across the alley. Therefore, the Project will maintain consistency with its immediate surroundings and those of the wider neighborhood.

In summation, the Project's minor (0.31 ft.) lot width relief satisfies the requirements for my office to grant the requested deviation/modification. Therefore, your client is authorized to deviate from the minimum lot width requirement to provide four new record lots each measuring 17.69 feet in width, as illustrated on the diagram attached at **Exhibit "C"**.

### **Conclusion**

For the reasons stated above, this Office finds that the standards of Subtitle A § 304.3 are satisfied here, and accordingly, it grants the requested 1.72% deviation in lot width pursuant to Subtitle A § 304.3.

Accordingly, a Subdivision application would be approved by this office insofar that the documentation filed with that application are consistent with the diagram attached to this letter at **Exhibit "C"**.

This letter constitutes the first writing reflecting the administrative decision. Therefore, under Subtitle Y § 302.5 of the District's Zoning Regulation, no subsequent document, including a building permit, can be appealed unless the document modifies or reverses this letter or reflects a new decision.

Please let me know if you have any further questions.

Sincerely,



Matthew Le Grant  
Zoning Administrator

Attachments:

- Exhibit A: Zoning Map
- Exhibit B: Neighborhood Photos
- Exhibit C: Lot Subdivision Diagram