

# ANC1C Resolution on BZA 19731 - Special Exception 1766 Lanier Place NW - Revised

## RF-1 Zoning Designation

Whereas, Lanier Heights, located within ANC1C in Adams Morgan, was rezoned to RF-1 in 2016 to control density and preserve the character of the neighborhood's residential single-family homes while permitting for the conversion of row houses to flats (2 units).

Whereas, the property is in the RF-1 zone district, with protections for preservation of roof top architectural elements, functioning of adjacent chimneys, and production of existing neighboring solar arrays in Subtitle E-206.1. Furthermore, height in the RF-1 zone is limited to 3 stories and 35'.

### *DCMR 11, Subtitle E 206.1*

*"In an RF zone district, the following provisions shall apply: (a) A roof top architectural element original to the building such as cornices, porch roofs, a turret, tower, or dormers, shall not be removed or significantly altered, including shifting its location, changing its shape or increasing its height, elevation, or size. For interior lots, not including through lots, the roof top architectural elements shall not include identified roof top architectural elements facing the structure's rear lot line. For all other lots, the roof top architectural elements shall include identified rooftop architectural elements on all sides of the structure;"*

*(b) Any addition, including a roof structure or penthouse, shall not block or impede the functioning of a chimney or other external vent compliant with any District of Columbia municipal code on an adjacent property. A chimney or other external vent must be existing and operative at the date of the building permit application for the addition; and*

*(c) Any addition, including a roof structure or penthouse, shall not significantly interfere with the operation of an existing solar energy system of at least 2kW on an adjacent property unless agreed to by the owner of the adjacent solar energy system. For the purposes of this paragraph, the following quoted phrases shall have the associated meanings:*

### *DCMR 11, Subtitle E 303.1*

*"Except as specified elsewhere in this section, the maximum permitted height of buildings or structures and any additions thereto not including the penthouse, in an RF-1 zone shall not exceed thirty-five feet (35 ft.) and three (3) stories."*

Whereas DCMR 11, Subtitle U 320.2 outlines conditions under which conversion of an existing residential building in RF-1 (and select other zones) to an apartment house may be permitted under a special exception request to the Board of Zoning Adjustment (BZA), subject to conditions, of which not more than three (3) may be waived by the BZA.

## RF-1 Special Exception Submissions

Whereas, DCMR 11, Subtitle U 320.3 outlines additional provisions that must be addressed in the BZA special exception appeal and Subtitle X 901.2(a) outlines special exception review standards.

Whereas BZA 19731 (subject property: 1766 Lanier Heights, NW) was filed February 12, 2018, requesting a special exception to RF-1 provisions, with multiple shortcomings that prompted the Office of Planning to withhold its report on the special exception request.

Whereas BZA 19731 filed revised architectural plans on April 2, 2018 along with a request to waive the 21-day filing deadline per Subtitle Y 300.15, providing the ANC and residents with insufficient time to review the revised plans. Furthermore, the Office of Planning had not submitted a written report as of mid April 2018.

**RF-1 Zone Restrictions**

Whereas RF-1 limits buildings to 3 stories and the proposed project in BZA 19731 proposes to add an additional story to the existing 3 story building, resulting in an impermissible 4 story building.

*Subtitle E 303.1*

*“Except as specified elsewhere in this section, the maximum permitted height of buildings or structures and any additions thereto not including the penthouse, in an RF-1 zone shall not exceed thirty-five feet (35 ft.) and three (3) stories.”*

**RF-1 Special Exception Shortcomings**

Whereas BZA 19731 contain the following shortcomings (for the initial and/or revised filings, as noted below):

- **Removal/Significant Alteration of the Architectural Element** - BZA 19731 would violate Subtitle U 320.2 (h) (summarized below) by removing and/or significantly altering the architectural element in whole and in specific parts, as described in the below chart:

*DCMR 11 Subtitle U 320.2 (h)*

*“A roof top architectural element original to the house such as cornices, porch roofs, a turret, tower, or dormers shall not be removed or significantly altered, including shifting its location, changing its shape or increasing its height, elevation, or size. For interior lots, not including through lots, the roof top architectural elements shall not include identified roof top architectural elements facing the structure’s rear lot line. For all other lots, the roof top architectural elements shall include identified rooftop architectural elements on all sides of the structure;”*

Architectural Element	Initial Filing Compliant?	Revised Filing Compliant?
Shall Not Be Removed	No	TBD
Shall Not Be Significantly Altered	No	No
Shall Not Shift its Location	No	TBD
Shall Not Shift its Shape	No	TBD
Shall Not Increase its Height	No	No
Shall Not Increase its Elevation	No	TBD
Shall Not Increase its Size	No	No
The subject property at 1766 Lanier Place is one of four contiguous row houses with an identical rooftop architectural element of red clay tiles (see attached photo) and the proposed project would disrupt this style.		

- **Initial and Revised Filings: Drawings Do Not Include or Clearly Depict Existing Conditions** - BZA 19731, contrary to the requirements of Subtitle U 320.2 (j) and Subtitle Y 300.8(c), does not adequately describe or provide plans that present existing conditions, which include:
  - The identical architectural element repeated by the subject property and three other contiguous row houses and ‘book end’ units at 1758 and 1768.
  - The existing sunken patio in the front yard of 1766 that projects more than 7’ from the face of the front façade, which places the building height measurement point (BHMP) at the base of the building within the sunken patio, therefore meaning that the current structure is 3 stories, not 2 stories as is indicated in the submission.

- No indication of the adjacent chimney with 2 separate flues at 1768, whose function will be impeded by the proposed project.
- No indication of the solar array in place at 1762 that will be affected by the proposed project, potentially by greater than 5%, which is disallowed and needs to be verified.

*Subtitle B 100.2*

*Building, Height of: In other than R, RF, RA, RC-1, CG-1, and D-1 zones, the vertical distance measured from the level of the curb, opposite the middle of the front of the building to the highest point of the roof or parapet or a point designated by a specific zone district; in Residential (R) zones the vertical distance measured at the existing grade at the midpoint of the building façade of the principal building that is closest to a street lot line to a point designated in the zone district. Berms or other forms of artificial landscaping shall not be included in measuring building height. The term “curb” shall refer to a curb at grade. When the curb grade has been artificially changed by a bridge, viaduct, embankment, ramp, abutment, excavation, tunnel, or other type of artificial elevation or depression, the height of a building shall be measured using Rules of Measurement for Height (Subtitle B § 308).*

*Cellar: That portion of a story, the ceiling of which is less than four feet (4 ft.) above the adjacent finished grade.*

*Subtitle U 320.2 (j) “In demonstrating compliance with Subtitle U § 320.2(i) the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the conversion and any associated addition to adjacent buildings and views from public ways;”*

*Subtitle Y 300.8(c)*

*“Architectural plans and elevations in sufficient detail to clearly illustrate any proposed structure to be erected or altered, landscaping and screening, and building materials, and where applicable, parking and loading plans,”*

- **Initial and Revised Filings: Self-certification of the existing Zoning and required relief is incomplete.** The applicant does not properly record either the existing or proposed building height or number of stories. Pursuant Subtitle E-303.1 Height, the BHMP as presented in the documents to BZA is not accurate and must be shown at the patio level. Properly noted, the existing and proposed building height is not correct and would exceed the 35’ limit. Also, the number of stories for both existing and proposed should be increased by 1. The addition would therefore result in a 4-story structure, which is not allowed as a matter of right in RF-1.
- **Initial and Revised Filings: Fail to Meet Special Exception Review Standards** - BZA 19731 does not meet special exception review standards outlined in Subtitle X 901.2(a) and specific standards outlined in Subtitle U 320.2(i) insofar that:
  - The proposed development is not “in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps,” in that the zoning district RF-1 clearly limits removal or substantial alteration of rooftop architectural elements.
  - The proposed development is 4 stories and exceeds the 3-story limit of RF-1.
  - The proposed development will substantially visually intrude upon the character, scale, and pattern of houses along the subject street or alley in terms of alteration of the mansard roof line shared by four contiguous row houses.

*Subtitle E 303.1*

*“Except as specified elsewhere in this section, the maximum permitted height of buildings or structures and any additions thereto not including the penthouse, in an RF-1 zone shall not exceed thirty-five feet (35 ft.) and three (3) stories.”*

*Subtitle U 320.2(i)(3)*

*“The conversion and any associated additions, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale and pattern of houses along the subject street or alley;”*

*Subtitle X 901.2*

*“The Board of Zoning Adjustment is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2), to grant special exceptions, as provided in this title, where, in the judgment of the Board of Zoning Adjustment, the special exceptions: (a) Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;”*

Whereas, ANC1C is concerned about any BZA decision that would set a precedent that may open the floodgates to approval of future special exception requests in terms of approval of 4-story row houses in 3-story RF-1 zones.

Therefore, be it resolved, that ANC1C opposes the BZA 19731 application’s proposal in its current form as it:

- Fails to clearly and adequately document and describe current conditions and the proposed scope of work.
- Continues to propose plans that would compromise the rooftop architectural element.
- Proposes the addition of an illegal fourth story in this RF-1 zone.
- Would allow for a new floor that would illegally interfere with functioning of the neighboring property’s chimney.
- Would allow for a new floor that would interfere with the neighboring property’s solar panels.