

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Stephen Gyor, Case Manager
 Joel Lawson, Associate Director Development Review
DATE: November 6, 2012

SUBJECT: BZA Case 18443, 3616 14th Street NW, request for variance relief under to allow the conversion of a two-story retail/office building to a three-story retail/residential structure.

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends **denial** of the following variances:

- § 771.2 Floor Area Ratio (2.0 existing, 2.5 maximum permitted, 2.83 proposed);
- § 772.1 Lot Occupancy (60% maximum permitted, 100% existing, 100% proposed);
- § 772.1 Rear Yard Setback (15 ft. required, 0 ft. existing, 0 ft. proposed); and
- § 2001.3 Nonconforming Structure.

Based on the information provided, the Office of Planning does not find sufficient evidence that the applicant has satisfied the tests for its requested variances. The application did not sufficiently establish what unique property characteristic(s) create a practical difficulty in this case.

The applicant has also requested parking relief from § 2101.1 (4 parking spaces required, 0 spaces proposed). If the BZA finds that the applicant has met the variance test for the other forms of required relief, OP has no major concerns with the parking relief request.

II. LOCATION AND SITE DESCRIPTION

Address	3616 14 th Street NW
Legal Description	Square 2689 , Lot 860
Ward	1
Lot Characteristics	Square 2689 is bounded by 14 th Street to the east, Perry Place NW to the south, Spring Place to the west, and Spring Road to the north. The property is approximately 2,400 sf. The lot is rectangular and relatively flat.
Zoning	C-2-A
Existing Development	The existing building includes retail use on the first floor and office use on the second (permitted in this zone). The existing structure was built in 1920.



Historic District	Not applicable
Adjacent Properties	Adjacent properties include two story mixed-use structures.
Surrounding Neighborhood Character	14 th Street is characterized by a narrow C-2-A District. The neighborhood is also characterized by three story attached residential dwellings to the west and east.

III. APPLICATION IN BRIEF

The applicant proposes to convert a two-story retail/office building to a three-story structure with retail on the first floor and eight apartments on the second and third floor. The first floor would include retail space with frontage on 14th Street. The layout of the first floor would remain largely unchanged. The second and third floors would contain four units each which would be accessible by a common stairwell. The second and third floors would include a rear courtyard (a portion of the existing second floor would be removed). The applicant proposes to provide zero parking spaces. The proposed project does not meet the requirements of the zoning regulations with respect to nonconforming structures (lot occupancy and rear yard), FAR, and parking.

IV. ZONING REQUIREMENTS and REQUESTED RELIEF

C-2-A Zone	Regulation	Existing	Proposed	Relief
Height §770.1	50 ft. max.	24 ft.	34 ft.	None required
Floor Area Ratio § 771.2	2.5 max.	2.0	2.83	Relief Required
Lot Occupancy § 772.1	60% max.	100%	100%	Relief Required
Rear Yard § 774.1	15 ft. min.	0 ft.	0 ft.	Relief Required
Nonconforming Structure § 2001.3	NA	NA	NA	Relief Required
Parking § 2101.1	4 spaces	0 spaces	0 spaces	Relief Required



Figure 1: Front of Subject Property

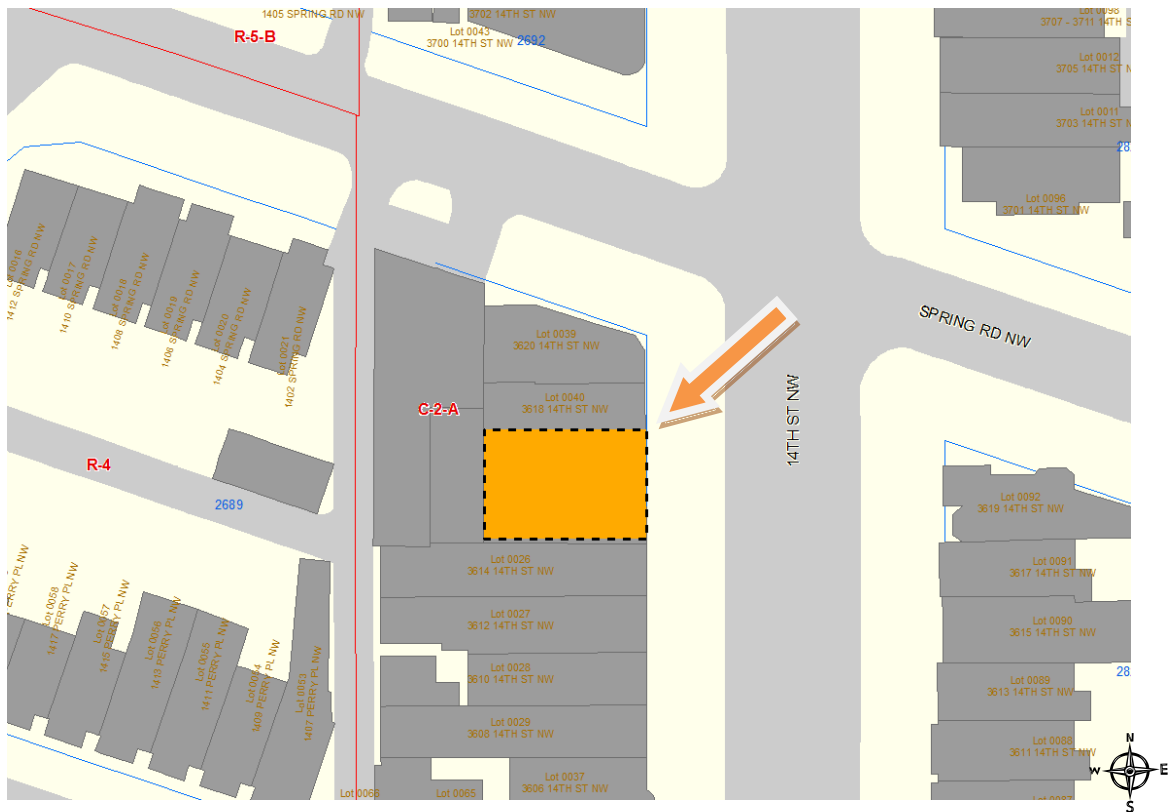


Figure 2: Subject Property

V. OFFICE OF PLANNING ANALYSIS

a. Variance Relief from § 771.2 (Floor Area Ratio), § 772.1 (Lot Occupancy), § 772.1 (Rear Yard), § 2001.3 (Nonconforming Structure), and § 2101.1 (Parking).

i. Exceptional Situation Resulting in a Practical Difficulty

The applicant states that the property is burdened by:

- Existing non-conformity with respect to lot occupancy and rear yard;
- Existing lot dimensions;
- Existing retail tenant;
- Floor area ratio (FAR); and
- Infeasibility of on-site parking.

Existing Nonconformities:

The existing structure is nonconforming for lot occupancy and rear yard setback. According to the applicant, adherence to lot occupancy and rear yard requirements would create a practical difficulty and would require the removal of 40% of the existing structure. However, the applicant has not stated why the new third floor cannot comply with rear yard and lot occupancy restrictions. 100% lot occupancy and the lack of a rear yard on an overbuilt lot are not exceptional situations necessitating a larger structure.

Existing Lot Dimensions:

The application states that the applicant cannot make reasonable use of the subject property because of the relatively wide and short nature of the lot relative to other properties in the immediate vicinity. However, the wider and shorter nature of the subject property is not exceptional and is not a factor in preventing the applicant from developing vertically; the lot is rectangular and does not possess any topographical or other unusual characteristics. In particular, the lot dimensions would not cause a practical difficulty related to lot occupancy or floor area ratio.

Existing Retail Tenant:

The ground floor of the subject property is currently occupied by La Tienda 3 por 10, a local retail establishment. The applicant argues that compliance with lot occupancy or rear yard requirements would require La Tienda to relocate and would reduce the square footage available upon its return. However, this is an existing condition, not related to the relief required for a residential third floor addition.

Floor Area Ratio (FAR):

The application states that the FAR requirement results in a practical difficulty for the applicant because adherence to the 2.5 FAR permitted in the C-2-A zone would

result in a project that would be financially infeasible. The zoning regulations require that no more than 1.5 FAR may be devoted to non-residential uses in the C-2-A zone. The existing two-story building totals 2.0 FAR and, therefore, exceeds the non-residential FAR permitted in the C-2-A zone because all of the existing structure is devoted to non-residential uses. While the proposed project would bring the subject property into conformity with the nonresidential FAR requirement, it would nevertheless exceed the total FAR permitted by 0.33 or 792 feet due to the proposed full third floor addition. Therefore, the structure's proposed density would exceed that which is permitted in the C-2-A zone.

The application states that the existing structure creates difficulties for the reasonable use of the property; i.e., the location of the existing stairwell results in a loss of over 160 sf. of rentable space. However, vertical circulation space is a normal requirement for any multi-story building, and the applicant has not addressed how the situation on this property is unique or results in a practical difficulty. The applicant provided data forecasting the respective potential financial returns based on four and eight residential units. Although zoning does not limit the number of units, the applicant contends that less than eight units would not provide sufficient financial return. A pro forma demonstrating the projected financial return resulting from six units was not provided by the applicant.

Infeasibility of On-Site Parking:

With regard to parking, the existing structure precludes the possibility of parking on the subject property because the structure covers the entire site. Additionally, underground parking would not be feasible on a site this size. Partially demolishing the existing structure would be impractical. The subject property is served by a variety of transportation modes, including MetroBus, Capital Bikeshare stations, Zipcar, and is in walking distance to two metrorail stations. The District Department of Transportation (DDOT) supports the applicant's request for parking relief. If the Board determines that the applicant has met the test for relief for the other variances, OP believes that the applicant could meet the test for parking relief.

ii. No Substantial Detriment to the Public Good

Granting the requested relief would not result in a substantial detriment to the public good. The additional units would enhance the 14th Street area by converting an underutilized office space to a mixed-use retail/residential space. The third floor would benefit from a setback more in keeping with the character of the neighborhood, which would also eliminate some of the relief requested. However, the applicant stated that no setback is possible due to the space limitation required for marketable residential units. Similarly, the applicant states that a setback in the rear of the structure is not possible.

Although the subject structure was built in 1920 and is not located in a historic district, it nevertheless contributes to the character of the surrounding neighborhood. In OP's view, the proposed design of the third floor addition could be improved. As

noted above, the third floor should be set back from the front façade or designed to be consistent with the lower two floors. For example, the third floor windows should align with the windows on the lower floor, and the material proposed by the applicant, metal cladding, seems to conflict with the existing facade treatment on the first and second floors.

iii. No Substantial Harm to the Zoning Regulations

The requested variances would cause substantial harm to the Zoning Regulations. Most significantly, the addition would extend the existing nonconforming lot occupancy and result in density in excess of what is permitted in the C-2-A zone. OP acknowledges that the 14th Street Corridor Vision and Revitalization Strategy, noted in the application, proposes strengthening the visual, pedestrian, and business connections to the area along 14th Street from Shepard Street to Spring Road. While the proposed project would bring additional residents to the area and would redevelop an underutilized property, its proposed lot occupancy and density would contravene the District's zone plan.

VI. CONCLUSION:

The application has not adequately established a practical difficulty associated with an existing property condition or characteristic, the first standard for variance approval. There is no nexus between any uniqueness of the property and a practical difficulty for the applicant. Therefore, the requested variances cannot be justified "without impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map" (§ 3103.2).

In addition, the applicant's proposal would be detrimental to the intent and integrity of the zoning regulations. As a result, OP cannot support this request.

VII. COMMUNITY COMMENTS

ANC 1A voted to support the application at its regular meeting on September 12, 2012.

Seven neighbors in the vicinity of the proposed addition have filed letters in support of the applicant. OP is not aware of any opposition.