

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Stephen Gyor, Case Manager
 Joel Lawson, Associate Director Development Review
DATE: January 29, 2013
SUBJECT: BZA Case 18500, 2914 Sherman Ave NW, request for variance relief to allow an addition to an existing 18 unit apartment building.

I. OFFICE OF PLANNING RECOMMENDATION

Typically, Office of Planning analysis indicates that the creation or expansion of a multi-family building in the R-4 zone is contrary to the intent of that zone. In this case, the existing vacant apartment building is proposed to be rehabilitated, resulting in the construction of an additional 4th floor and the addition of two units, increasing the number of units from 18 to 20. The Applicant has provided some documentation that the additional floor and units are necessary to permit the building rehabilitation.

Given the unique circumstances associated with this proposal, the Office of Planning (OP) is **not opposed** to the granting of the following relief:

- § 400.1 Height (max. 3 stories permitted, 3 stories existing, 4 stories proposed);
- § 401.11 Lot Area (18,000 sf. required, 6000 sf. existing, 6,000 sf. proposed);
- § 403.2 Lot Occupancy (40% max. permitted, 68% existing, 68% proposed);
- § 404.1 Rear Yard (20 min. required, 9'-2" existing, 9'-2" proposed);
- § 406.1 Open Court (13'-4" required, 9'-4" existing, 9'-4" proposed);
- § 2001.3 Nonconforming Structure; and
- § 2101.1 (1 parking space required, 0 spaces existing, 0 spaces proposed).

II. LOCATION AND SITE DESCRIPTION

Address	2914 Sherman Ave NW
Legal Description	Square 2852, Lot 807
Ward	1
Zoning	R-4, which permits row dwellings and flats, and limited conversions of existing buildings to multi-family dwellings.



Lot Characteristics	Square 2852 is bounded by Sherman Avenue NW on the east, Harvard Street NW on the south, 11 th Street NW on the west, and Columbia Road NW on the north. The Property is rectangular in shape and measures 50' along Sherman Avenue NW and is 120' deep. The lot is rectangular and relatively flat.
Existing Development	The existing building is a former apartment structure for 18 units and is currently vacant. The structure was built in 1925.
Historic District	Not applicable
Adjacent Properties	Adjacent properties include a Pepco substation to the south, the Concord Alliance of Men to the southwest, and a townhouse to the north.
Surrounding Neighborhood Character	The neighborhood is characterized by townhouses, low-density apartment buildings, and low density commercial structures.

III. APPLICATION IN BRIEF

The Applicant proposes to convert an existing three-story 18-unit apartment building to a four-story 20-unit apartment building in the R-4 District, which permits detached, semi-detached, and row dwellings, as well as conversions to apartments at a ratio of 1 unit per 900 sq. ft. of lot area. New apartment buildings are not permitted by-right. The proposed renovations and addition would not change the footprint of the existing structure, but would add an additional story. The building has been vacant for approximately seven years. Each of the four floors in the proposed project would include five units. The building is not located in a historic district.

The Applicant proposes to provide zero parking spaces. The proposed project is currently a nonconforming structure (lot occupancy, lot area, rear yard, open court, and parking), and height (number of stories). It pre-dates the zoning regulations and was originally constructed as an apartment building. Although the footprint of the building is not proposed to be expanded, the addition of a full fourth floor increases the extent of non-conformity to lot occupancy, rear yard, side yard, and open court.

IV. ZONING REQUIREMENTS and REQUESTED RELIEF

R-4 Zone	Regulation	Existing	Proposed	Relief
Height § 400.1	40 ft. max. (3 stories)	31 ft. (3 stories)	40 ft. (4 stories)	Relief Required for # stories
Lot Area § 401.11	18,000 sf. min.	6,000 sf. min.	6,000 sf.	Relief Required
Lot Occupancy § 403.2	40% max.	68%	68%	Relief Required
Rear Yard § 404	20 ft. min.	9'-2"	9'-2"	Relief Required
Side Yard § 405	NA	NA	NA	None Required
Open Court § 406.1	13'4"	9'-4"	9'-4"	Relief Required
Nonconforming Structure § 2001.3	-	-	-	Relief Required
Parking § 2101.1	1 space	0 spaces	0 spaces	Relief Required

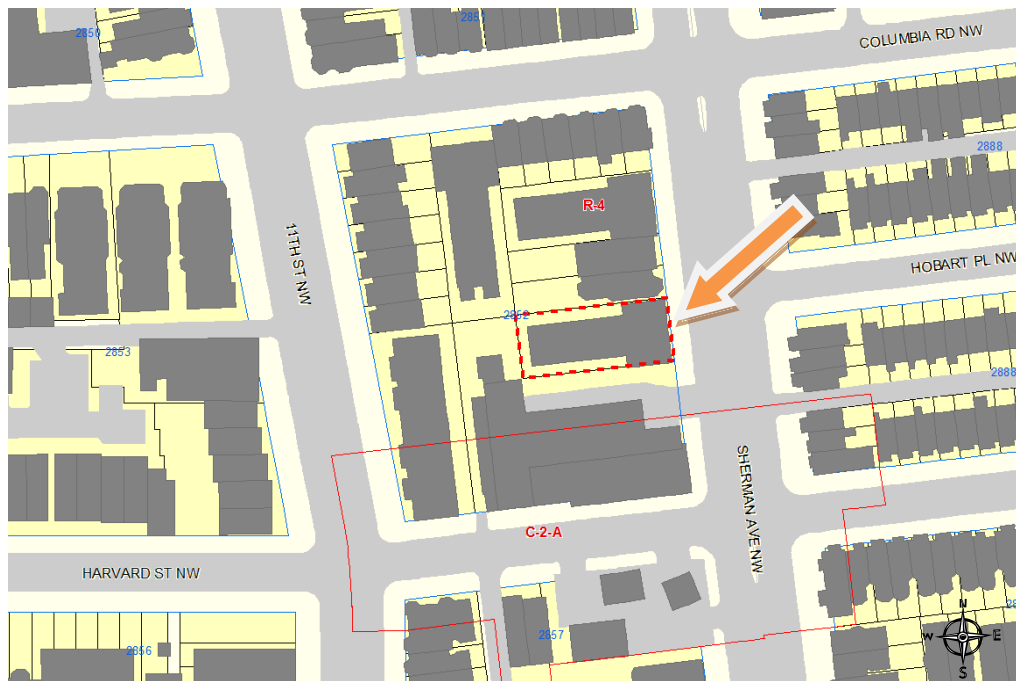


Figure 1: Subject Property



Figure 2: Front of Subject Property

V. OFFICE OF PLANNING ANALYSIS

a. Variance Relief from § 400.1 (Height), § 401.11 (Lot Area), § 403.2 (Lot Occupancy), § 404.1 (Rear Yard), § 406.1 (Open Court), § 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:

- Lot dimensions;
- Existing non-conformities;
- Existing inefficient structure; and
- Infeasibility of on-site parking.

Lot Dimensions:

The Application states that the Applicant cannot make reasonable use of the subject property because of the relatively larger size of the structure and lot relative to other properties in the immediate vicinity. While the lot is rectangular and does not possess any topographical or other unusual characteristics, the Property already

contains a three-story pre-1958 apartment building which occupies a higher percentage of the lot than is currently permitted in an R-4 District.

Pursuant to §401.11, an apartment house in an R-4 District may not be expanded so as to increase the number of dwelling units unless there is 900 sf. of lot area for each dwelling unit:

401.11 An apartment house in an R-4 District, whether converted from a building or structure pursuant to § 330.5 or existing before May 12, 1958, may not be renovated or expanded so as to increase the number of dwelling units unless there are 900 square feet of lot area for each dwelling unit, both existing and new. [ORDER NO. 06-47; 09/14/07]

The lot area per dwelling unit is already well below the required 900 sf. per unit (it currently totals 333 sf. of lot area per unit), and the proposed increase in dwelling units would result in an even lower lot area per unit (300 sf. per unit). However, the dilapidated condition of the existing structure creates a practical difficulty for the Applicant. The proposed project would not change the footprint of the existing structure.

Existing Nonconformities:

The existing structure is nonconforming for lot occupancy, lot area, rear yard, and open court. According to the Applicant, adherence to lot occupancy requirements would create a practical difficulty and would require the removal of a significant portion of the existing structure. Likewise, an addition into the rear yard or courts would require removing and replacing exterior walls to obtain only a small increase in square footage and would be similarly impractical, (such an addition would also expand the existing nonconformities in those areas). Therefore, a fourth floor addition would be the only practical way to expand the structure.

Existing Inefficient Structure:

The practical difficulty associated with the proposal is due, in part, to the financial infeasibility of renovating the existing structure and reconfiguring its outdated and inefficient existing floor plan. According to the Applicant, the existing structure would need to be reconfigured to achieve an efficient layout, unit size, and design, as well as to bring the structure into compliance with the building code. The Application states that the existing structure's floor plan includes a double loaded corridor in the middle of the central hallway with dwelling units on either side. The Applicant contends that proper renovation would require significant investment in modifying and modernizing the existing layout.

OP notes that a building requiring renovation is not uncommon and typically does not comprise an exceptional situation. However, the Applicant provided data forecasting the respective potential financial returns based on 18 and 20 residential units. Although the zoning regulations limit the number of units to one unit per 900

square feet of land area, the Applicant contends that less than 20 units would not provide sufficient financial return. A pro forma demonstrating the projected financial return resulting from 18 and 20 units was provided by the Applicant. The Property's existing condition, including inefficient layout and dilapidated state, comprises an exceptional situation and imposes a practical difficulty which is unnecessarily burdensome to the Applicant. The Applicant's proposal for 20 units is an outgrowth of the Property's unique features.

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 developed site of 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 Metrorail.

ii. No Substantial Detriment to the Public Good

Granting the requested relief would not result in a substantial detriment to the public good. The project would reuse an existing building for residential use in a residential neighborhood. The additional units would enhance the Sherman Avenue area by renovating a vacant structure. The project should not have a detrimental impact on light and air or create an unreasonable intensity of residential use. The proposal creatively allows for the rehabilitation of a building in a manner that would be contextually consistent with the neighboring land uses. A fourth floor addition would not be out of character with the surrounding properties.

iii. No Substantial Harm to the Zoning Regulations

The requested variances would not cause substantial harm to the Zoning Regulations. OP typically opposes the creation or expansion of a multi-family building in the R-4 zone as contrary to the intent of that zone; however, renovation of the existing structure would not result in density out of character with the Square. Furthermore, OP is sympathetic to the project objectives and supports the renovation of vacant structures.

OP acknowledges that the Georgia Avenue – Petworth Metro Station Area and Corridor Plan Revitalization Strategy, noted in the Application, encourages property owners and private investors to rehabilitate vacant or dilapidated residential properties along Sherman Avenue. The proposed project would bring additional residents to the area and would redevelop an underutilized property.

VI. CONCLUSION:

The Application has adequately established a practical difficulty associated with an existing property condition or characteristic, the first standard for variance approval. There is a nexus between the uniqueness of the property and a practical difficulty for the Applicant. Therefore, the requested variances can be justified “without impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map” (§ 3103.2).

OP is supportive of the rehabilitation of underused properties and the creation of housing in the District. District policy also supports reinvestment in urban properties, although with the caution that infill development should reflect the prevailing character of the neighborhood and development limitations of the zone designation. The proposed project would rehabilitate an underused property and expand a building already configured for apartments.

Although OP has consistently recommended denial of applications for the conversion of rowhouse buildings to apartment buildings in the R-4 zone through the addition of a third unit, in this case the building was originally constructed as an apartment building and pre-dates the current zoning code. Based on an analysis of the three-part variance test, OP does not oppose approval of this application.

VII. COMMUNITY COMMENTS

ANC 1A voted to support the project at its meeting on January 9, 2013, and three neighbors have provided letters in support of the project.