


MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Elisa Vitale, Case Manager
 Joel Lawson, Associate Director Development Review

DATE: October 14, 2016

SUBJECT: BZA 19353 – Variance and Special Exception relief to permit the conversion of a non-residential building to a nine-unit apartment building with ground floor commercial uses in the RF-1 Zone at 770 Park Road, NW

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) **cannot make a recommendation** with respect to the requested Special Exception relief from U § 320.3 for conversion of a non-residential building. The Applicant has not provided sufficient graphical representations such as plans, photographs, or elevation and section drawings to demonstrate the relationship of the conversion and any associated addition to adjacent buildings and views from public ways, as required by U § 320.3(c).

The applicant has also requested Use Variance from U § 301.1 for ground floor retail; general service; arts, design and creation; or eating and drinking establishment use. This would permit uses such as a full service restaurant or bar, which would only be considered in a low density residential zone through a detailed review of the specific impacts of the proposal. As such, OP would **not support** this extent of unrestricted use variance relief. However, OP **could recommend approval** of use variance relief, if the approval is subject to the newly adopted Corner Store relevant conditions found in U §§ 254.8-254.12.

II. LOCATION AND SITE DESCRIPTION

Address	770 Park Road NW
Applicant	Cary Kadlecsek, Attorney on behalf of 770 Park, LLC, Owner
Legal Description	Square 2897, Lot 915
Ward / ANC	1 / 1A
Zoning	RF-1 (Residential Flat)
Lot Characteristics	The corner property is generally rectangular in shape, fronts on Park Road to the north and Sherman Avenue to the west, and contains approximately 8,294 square feet of land area. A 14-foot wide access easement runs east west along the southern property line and serves as a driveway.
Existing Development	The property is improved with a vacant, three-story detached building.

Adjacent Properties	To the north, across Park Road, east, and south are row dwellings and flats also in the RF-1 zone. To the west across Sherman Avenue is a reservation (RES 323A).
Surrounding Neighborhood Character	The surrounding neighborhood is residential in character. Commercially uses are located to the west on 11 th Street NW and to the east along Georgia Avenue NW.

III. PROJECT DESCRIPTION IN BRIEF

The applicant proposes to convert and expand the existing vacant building to include nine multifamily residential units along with ground floor commercial. The expansion would consist of a three-story addition to the rear (south) of the building.

IV. ZONING REQUIREMENTS AND REQUESTED RELIEF

RF-1 Zone	Regulation	Existing	Proposed ¹	Relief:
Height (ft.) E § 303	35 ft. max.	33 ft.	33 ft.	None required
Lot Width (ft.) E § 201	40 ft. min.	74 ft.	74 ft.	None required
Lot Area (sq. ft.) E § 201	8,100 sq. ft. min.	8,294 sq. ft.	8,294 sq. ft.	None required
Floor Area Ratio	None prescribed			
Lot Occupancy E § 304	60% max.	36%	60%	None required
Rear Yard (ft.) E § 306	20 ft. min.	47 ft.	20 ft.	None required
Side Yard (ft.) E § 307	None required, but 5 ft. min. if provided	5.8 ft.	5.8 ft. / 11 ft.	None required
Court E § 203	2.5 in./1 ft. height min. or 10 ft.	47 ft.	11.6 ft.	None required
Parking C § 701.5	1 sp./2 du (2 existing)	2 sp.	8 sp.	None required

V. OFFICE OF PLANNING ANALYSIS

Conversion

The Applicant is requesting special exception relief pursuant to X § 901.1 because the project would not meet the criteria of U § 301.2(d), which states that an addition shall not extend further than ten feet (10 ft.) past the furthest rear wall of any principal residential building on an adjacent property. The proposed addition would extend approximately twenty-seven feet (27 ft.) beyond the adjoining flat at 766 Park Road NW.

U § 320.3 Conversion of a non-residential building or other structure existing prior to May 12, 1958, to an apartment house and not meeting one (1) or more of the requirements of Subtitle U § 301.2, shall be permitted as a special exception in an RF-1, RF-2 or RF-3 zone if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9 subject to the following provisions:

- (a) *No special exception relief shall be available from the requirements of Subtitle U § 301.2(a);*

¹ Information provided by applicant.

The subject property features an existing building that was constructed as a mixed-use building, with ground floor retail (grocery) and a single-family dwelling on the upper floors, in approximately 1911. The building, in its entirety, was used for a day care center beginning in approximately 1982. It is not known when the day care center ceased operations.

- (b) *Any addition shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular;*
 - (1) *The light and air available to neighboring properties shall not be unduly affected;*
 - (2) *The privacy of use and enjoyment of neighboring properties shall not be unduly compromised; and*
 - (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;*

OP is unable to evaluate whether the addition would have a substantially adverse effect on the use or enjoyment of the abutting property at 766 Park Road NW. The Applicant has provided floor plans and a rendered elevation of the Park Road façade; however, additional architectural elevations, photographs, and information on proposed building materials are required to evaluate the impact of the proposed conversion and addition.

- (c) *In demonstrating compliance with Subtitle U § 320.3(b) 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; and*

The Applicant has not provided sufficient graphical representations to demonstrate compliance with Subtitle U § 320.3(b).

- (d) *The Board of Zoning Adjustment may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent or nearby properties, or to maintain the general character of a block.*

No special treatment can be assessed at this time, as OP's evaluation is not complete.

Use Variance

The Applicant has requested a variance pursuant to X § 1000.1 from the use permissions of U § 301.1, Matter-of-Right Uses (RF), to permit a retail; general service; arts, design and creation; or eating and drinking establishment use on the ground floor. The Applicant states that the use variance is being requested because there is no feasible matter-of-right use for the space. The Applicant has not secured retail tenants at this time.

I. Exceptional Situation Resulting in a Practical Difficulty

The subject property features an existing building that was purpose built for ground floor retail uses, which creates an exceptional situation. Building features on the ground floor, including large shop windows, that are consistent with the prior commercial use would not be appropriate for residential units and result in a practical difficulty.

II. Exceptional and Undue Hardship

The physical characteristics of the mixed-use building create an undue hardship to the Applicant with respect to residential use of the ground floor. Conversion of the ground floor space to residential use would be challenging as the building was originally constructed for a mix of uses, including a grocery store tenant on the ground floor.

III. No Substantial Harm to the Zoning Regulations

A use variance to permit retail; general service; arts, design and creation; or an eating and drinking establishment in the RF-1 zone with no conditions could result in substantial detriment to the public good, and would not be consistent with previous BZA decisions of a similar nature. Permitting any retail; general service; arts, design and creation; or an eating and drinking establishment use, without restriction, has not typically been considered appropriate in the RF-1 zone.

The RF zones are residential zones, which provide for areas developed primarily with row dwellings but within which there have been limited conversions of dwellings or other buildings into more than two dwelling units. However, the RF zones also contemplate limited compatible non-residential uses. Furthermore, the Zoning Commission introduced Corner Stores as a permitted use within the RF zones and in doing so recognized and reinforced the importance of walkable neighborhoods.

The Corner Store provisions at U § 254.2 contemplate retail; general service; arts, design and creation; or eating and drinking establishment uses by special exception, but U §§ 254.5-254.12 and 254.14-254.15 set out conditions and review criteria to ensure that these uses are compatible with the surrounding residential development. Certain uses that could have a bigger impact, such as a bar or restaurant, are not permitted by-right or by special exception as a corner store in the rowhouse zones.

In this case, the existing ground floor commercial space exceeds the 1,200 square foot limit established in U § 254.5 and the dwelling unit limit established in U § 254.7 (one dwelling unit permitted; 9 dwelling units proposed). The subject property also fails to meet the location criteria in U § 254.6. However, OP supports the appropriate re-use of this space and acknowledges the existing situation on this property – the space proposed as non-residential already exists, and as noted above, its conversion to residential would appear to result in a practical difficulty.

As such, OP feels that Corner Store restrictions and requirements other than the commercial area limitation and the location restriction noted above, specifically U §§ 254.8-254.12, would appropriately be applied to ensure that neighborhood impacts are minimized over the long term, and recommends that they be included in the Order as conditions for the use variance.

Therefore, should the Board approve the requested Use Variance, OP recommends that the approval be for a use which falls within the retail, general service, arts design and creation, or eating and drinking establishment use categories and subject to the following limitations:

- There shall be no on-site cooking of food or installation of grease traps; however, food assembly and reheating is permitted.
- There shall be no sale of alcoholic beverages for on-site consumption.
- All storage of materials and trash shall occur within the building area devoted to the approved use. There shall be no external storage of materials or trash.

- There shall be no on-site use or storage of dry cleaning chemicals.
- Only one (1) external sign may be displayed on the building's façade, provided that the sign is not illuminated and is flush-mounted.

VI. COMMENTS OF OTHER DISTRICT AGENCIES

Comments from other District agencies had not been received at the time this report was drafted.

VII. COMMUNITY COMMENTS

ANC 1A voted 11-0-0 at its September 14, 2016, regular meeting to recommend approval of the application.

Attachment: Figure 1, Zoning Map

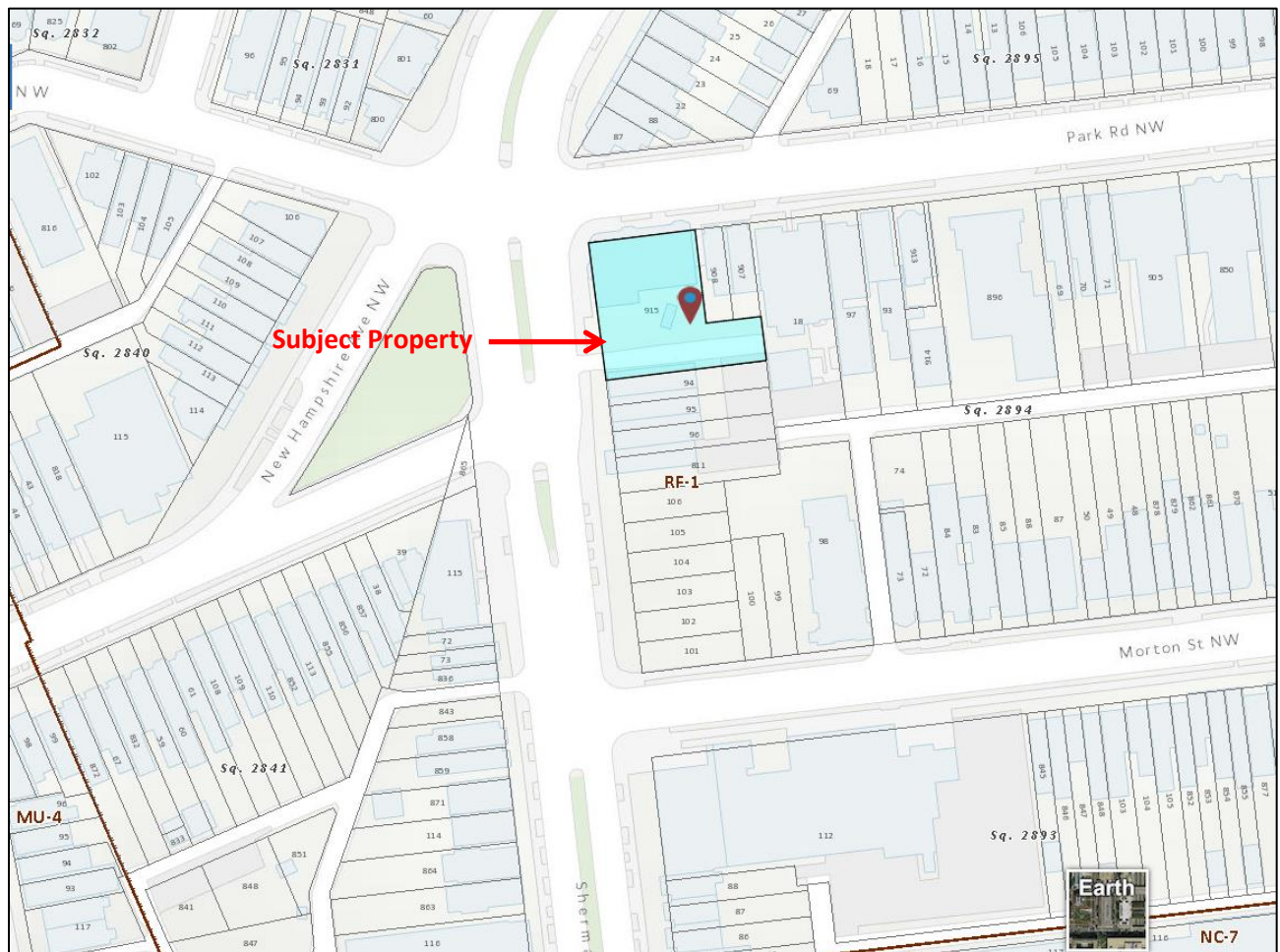


Figure 1: Zoning Map 770 Park Road NW