



SUPPLEMENTAL MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Elisa Vitale, Case Manager
JL Joel Lawson, Associate Director Development Review
DATE: November 18, 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. BACKGROUND

The Applicant requested Variance (U § 301.1) and Special Exception (U § 320.3) relief to permit the conversion of a non-residential building to a nine-unit apartment building with ground floor commercial uses to include general service; arts, design and creation; or an eating and drinking establishment in the RF-1 Zone at 770 Park Road, NW.

In its October 14, 2016 Memorandum (Exhibit 37), the Office of Planning (OP) could not make a recommendation with respect to the requested Special Exception relief from U § 320.3 for conversion of a non-residential building. The Applicant had 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). OP could not support the unrestricted use variance relief; but could recommend approval of use variance relief subject to the Corner Store relevant conditions found in U §§ 254.8-254.12.

The Board of Zoning Adjustment opened its hearing on October 25, 2016 and took testimony from the Applicant and Office of Planning. The Board requested that the Applicant provide additional information, including clarification of possible commercial uses discussed with ANC 1A, as well as graphical representations to demonstrate the relationship of the conversion and its associated addition to adjacent buildings and views from public ways.

II. OFFICE OF PLANNING RECOMMENDATION

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

- Special Exception relief from U § 320.3 for conversion of a non-residential building; and
- Use Variance from U § 301.1 for ground floor retail; general service; arts, design and creation; or eating and drinking establishment use subject.

Subject to the following conditions, agreed to by the applicant:

- Any commercial use(s) will operate no later than 12:00 midnight on Fridays and Saturdays and no later than 11:00 pm Sundays through Thursdays.

- Amplified sound outside of the building for the commercial use(s) shall not be permitted.
- Seating outside of the building for the commercial use(s) shall not be permitted.
- All storage for the commercial use(s) shall be contained within the commercial space(s).
- All trash shall for the commercial use(s) be stored within the building. No trash collection shall occur before 7:00 am or after 7:00 pm. Trash containers shall be rolled to the curb for trash collection so no backing up maneuvers shall occur from the driveway.
- There shall be no on-site use or storage of dry cleaning chemicals.
- No more than one sign shall be permitted for each commercial use, and no signage shall be lighted.
- Three secured and covered bicycle spaces shall be provided in the parking area between the automobile parking spaces and the building.
- The two parking spaces at the southeast corner of the site shall not be angled and shall be perpendicular to the driveway.
- All deliveries and loading shall be limited to between 7:00 am and 7:00 pm.
- The Applicant shall install security cameras on the exterior of the building to monitor the security of the commercial space.
- The Applicant shall implement regular rodent and pest control measures, including, but not limited to routine visits by exterminators and installation of pest-resistant storage.
- If a tenant of the commercial space is a restaurant, then it shall not be a “chain,” meaning that it shall be an establishment with no more than one other location in the Washington, D.C. metropolitan area.

OP has also recommended design changes to the proposed new penthouse level (which does not require any relief), as noted in this report.

III. 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.

IV. 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.

V. 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

VI. 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;*

The proposed three-story infill addition should not unduly affect the light and air available to neighboring properties nor should it unduly compromise the privacy of use and enjoyment of neighboring properties. The addition would be set back 8 feet from the neighboring property at 766 Park Road NW and 20 feet from the adjoining property at 3417 Sherman Avenue NW.

The proposed addition is respectful to the existing building it is being added on to, and should not substantially visually intrude upon the character, scale, and pattern of houses along Sherman Avenue NW.

- (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 provided sufficient graphical representations, including photo renderings and architectural elevations, 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.*

Although relief for the penthouse is not requested or required, OP recommends that the roof addition be made smaller or shifted to rest fully on the new construction portion of the project, while still meeting all setback requirements. Alternatively, the penthouse could be made more compatible if it were designed to be more complementary to the mansard roof on which it sits in terms of form, materials, coloration, and detailing.

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. While the Applicant has not secured tenants at this time, the possibility of a range of commercial uses was discussed with ANC 1A, which provided its support for the variance request.

I. Exceptional Situation Resulting in a Practical Difficulty or 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. 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. No Substantial Harm to the Public Good

Granting the use variance to permit a retail; general service; arts, design and creation; or eating and drinking establishment use on the ground floor would not pose substantial harm to the public good. The Applicant is not proposing to expand the retail beyond its original footprint. The proposed retail use would be neighborhood serving and should not compete with the larger-scale retail on either Georgia Avenue or 11th Street NW. The proposed conditions of approval should mitigate potential neighborhood impacts.

III. No Substantial Harm to the Zoning Regulations

While 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, 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.

The Applicant is contemplating a bar or restaurant use in this location and has discussed this possibility with the ANC. The ANC notes that should the Applicant secure a restaurant tenant, that it would review the ABRA application and address potential impacts on the community.

The Applicant has also proposed a number of conditions that OP recommends be adopted should the Board grant the requested use variance to permit retail; general service; arts, design and creation; or an eating and drinking establishment in the RF-1 zone. The conditions, as proposed, mirror many of the considerations applied to corner store uses and should mitigate the possibility of any adverse neighborhood impacts.

VII. COMMENTS OF OTHER DISTRICT AGENCIES

The District Department of Transportation (DDOT) recommended three conditions of approval in its October 13, 2016 report, which are included in the OP recommendation.

VIII. 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

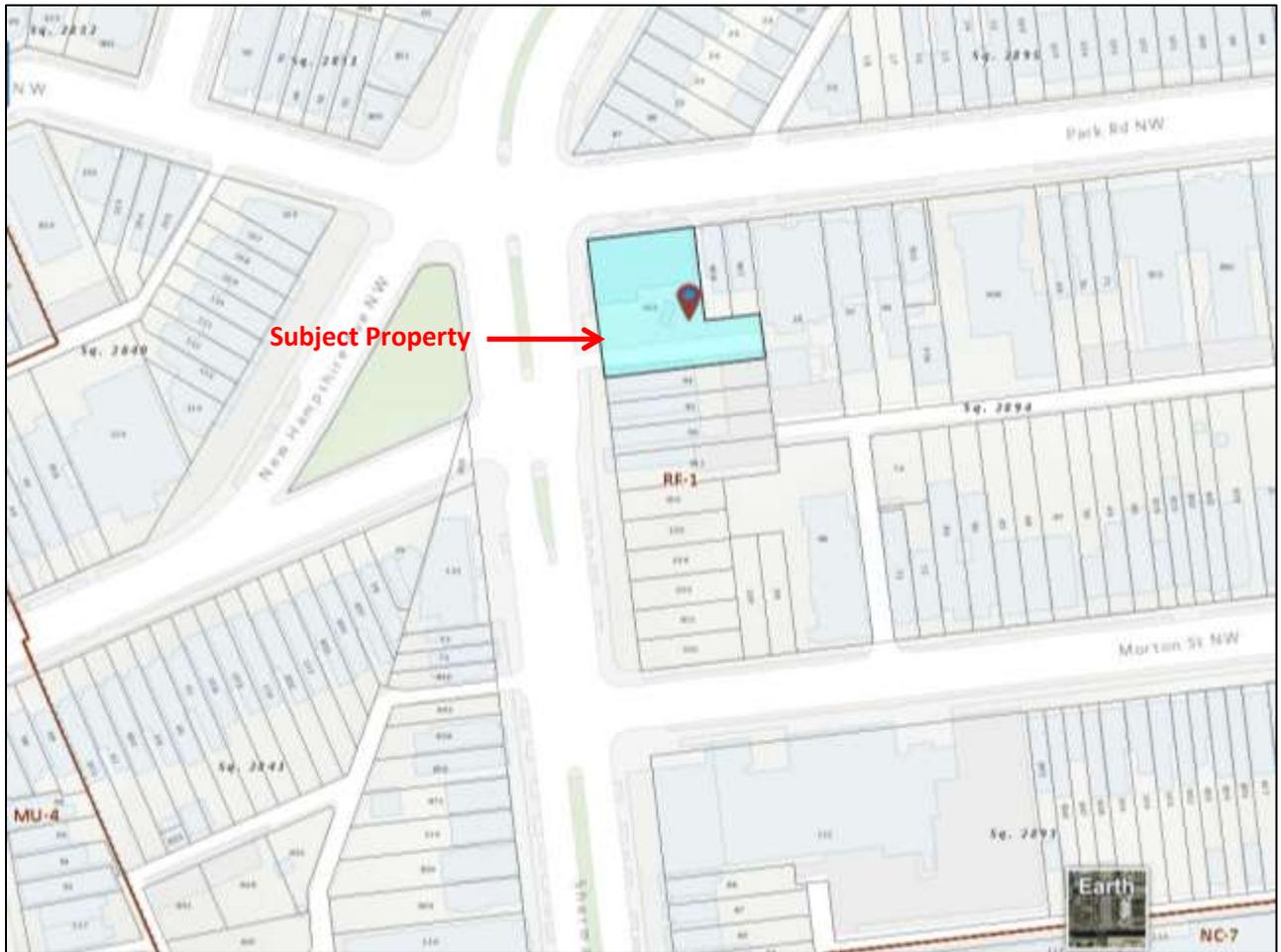


Figure 1: Zoning Map 770 Park Road NW