



MEMORANDUM

TO: District Board of Zoning Adjustment

FROM: Jennifer Steingasser, Deputy Director Development Review & Historic Preservation

DATE: September 14, 2010

SUBJECT: BZA Application # 18101 - Request for area variance relief from the maximum non-residential FAR (§ 771.2) for the expansion of a commercial use at 1440 Wisconsin Avenue N.W.

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) **recommends approval** of this application to expand the non-residential use within an existing row building, requiring the following relief:

- § 771.2, maximum non-residential FAR (exceeds permitted non-residential use by 1.2 FAR)

The Applicant also applied for area variance relief from § 2001.3 (enlargement or addition to a non-conforming structure devoted to a conforming use), but OP does not believe that such relief is necessary because no physical expansion of the building is proposed.

II. AREA AND SITE DESCRIPTION:

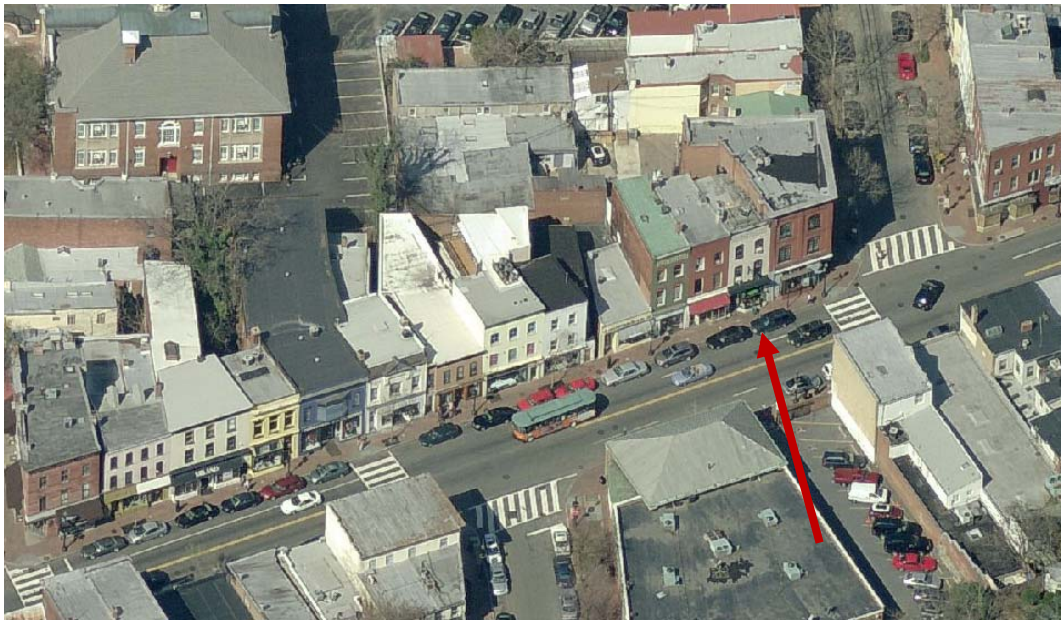
Address:	1440 Wisconsin Avenue N.W.
Legal Description:	Square 1244, Lot 163 (hereinafter, the "Property")
Ward/ANC:	2/2E
Lot Characteristics:	The lot is trapezoidal in shape and measures roughly 15' in width by 41' in length, totaling 624 square feet in lot area. The lot fronts Wisconsin Avenue to the east but is otherwise landlocked.
Zoning:	C-2-A: permits development to medium proportions including office employment centers, shopping centers, medium-bulk mixed use centers, and housing.
Existing Development:	The Property is developed with a three-story row building (the "Building") constructed in the late 19 th century. The Building presently is non-conforming to the floor area ratio, residential lot occupancy, and rear yard standards. It contains a restaurant tenant on the ground floor and cellar ("Wisey's") and a single split-level apartment on the second and third floors. The Applicant indicates that the apartment has been vacant for more than a year.
Historic District:	Georgetown Historic District
Adjacent Properties:	To the Property's north and west is an abutting L-shaped three-story building (1442 Wisconsin Avenue) containing a commercial use on the ground floor (L'Enfant Gallery). To the Property's south is an abutting three-story building with ground floor commercial use (Cappuccino Food) and residential uses on the second and third floors.
Surrounding Neighborhood Character:	The Square, and the neighborhood more generally, is characterized by one to three-story row buildings with ground floor retail use along Wisconsin Avenue. To the east and west of Wisconsin Avenue are predominately row dwelling residential areas.



III. PROJECT DESCRIPTION IN BRIEF

Applicant	Nabeel Audeh
Proposal:	The Applicant proposes to expand the commercial use to occupy the entire building. The second floor would be used for tables and customer space for Wisey's, and the third floor would provide accessory office and storage space for the restaurant. The expansion would produce a 2.7 FAR of non-residential use, thereby exceeding the 1.5 non-residential limit. No physical expansion of the building is proposed.
Relief Sought:	§ 771.2 – exceeding the maximum non-residential use cap

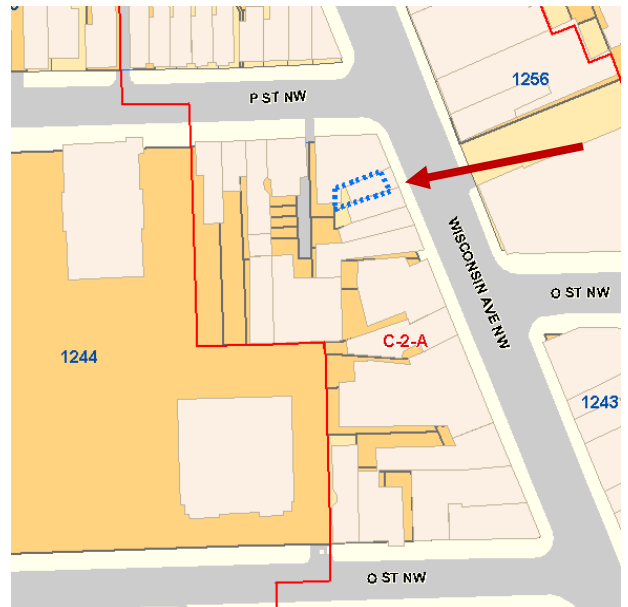
IV. IMAGES AND MAPS



View looking west across Wisconsin Avenue



Aerial view of the site (outlined in blue)



Map of the site and surrounding properties

V. ZONING REQUIREMENTS

The following table, which reflects information supplied by the Applicant, summarizes certain zoning requirements for the project and the relief requested.

C-2-A Zoning	Restriction	Existing	Proposed (each lot)	Relief
Lot area (sq. ft.)	N/A	624	624	Conforms
Lot width (ft.)	N/A	16.9'	16.9'	Conforms
Lot Occupancy (building area/lot) § 772	60% max. for res. use	~ 88%	~ 88% (no res. use)	Conforms
Rear Yard (ft.) § 774	15' min.	< 7'	< 7'	Non-conforming; no change proposed.
Floor area ratio (sq. ft./lot) § 771	2.5 res. (1.5 non-res. max.)	.85 (com.) 1.84 (res.)	~ 2.7 (com.)	Relief needed: exceeds non-res. restriction by 1.2 FAR or 749 sq. ft.

VI. RELIEF REQUESTED:

The Applicant’s proposal to expand the commercial use of the Building requires relief from the non-residential FAR restriction under § 771.2.

- 1. Does the property exhibit specific uniqueness with respect to exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situations or conditions?**

The Property does exhibit an exceptional condition with respect to the combination of its diminutive size and its layout. Of the commercially zoned properties in the Square, the Property is among the smallest at 624 square feet. OP estimates that the average commercial property size in the Square is 1,684 square feet.¹ More generally, a review of the C-2-A zone reveals that the Property is in the smallest 5% of all C-2-A zoned lots. The Building has a footprint of 547 square feet, which amounts to approximately 88% lot coverage. The Property is landlocked with a small depressed rear yard space.

The small building footprint, and the more than century old design of the Building, produces a constrained interior layout. Most of the ground floor is occupied by the restaurant’s kitchen and customer service areas. While the stairway leading from the ground floor to the second floor is located along the Building’s south wall, the stairway between the upper two floors is located in the center of the floor plan. As a result of the stairway location, only one room can fit on either side of the stairwell on the second and third floors and there is limited room for circulation on these floors aside from the stairwell.

- 2. Does the extraordinary or exceptional situation impose a practical difficulty which is unnecessarily burdensome to the applicant?**

The exceptional condition does impose a practical difficulty which is unnecessarily burdensome to the Applicant. The Applicant indicates that the restaurant operation is hindered by its small space, and that an expansion to the second floor would provide needed customer room. Similarly, the Applicant is permitted to expand up to 1.5 FAR of commercial use by right. Such an expansion would occupy more than 2/3 of the second floor with commercial uses. Due to the constrained floor layout of the upper floors, a commercial

¹ This figure does not include separately owned surface parking spaces. Additionally, while the Building was constructed in the late nineteenth century as part of a row of three properties (1438 and 1436 Wisconsin Avenue to the south), the subject Property is the smallest of these properties.

expansion to 1.5 FAR would restrict a tenant's access to the third floor by forcing a third floor tenant to pass through second floor commercial space. The Applicant further provides that there is insufficient space in the Building or on the Property to construct a new dedicated stairway to access the third floor. As such, without relief, a portion of the second floor and the entire third floor would have limited utility if the Applicant expanded the commercial use to the permitted 1.5 FAR, and would reasonably remain vacant.

3. Can the relief be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations and Map?

OP does not anticipate that the proposal would substantially harm the public good. The 1400 block of Wisconsin Avenue is a busy mixed-use corridor. The Building already contains an existing restaurant use which could expand, by right, into a portion of the second floor. The Applicant is proposing that the commercial use expand only 749 square feet beyond the non-residential cap. The Applicant also has indicated that productive discussions have occurred with the immediate neighbors regarding measures to mitigate any noise concerns. OP expects the Applicant to further address such issues prior to or at the BZA hearing.

The intent of the C-2-A zone generally is to encourage mixed-use development outside of the city's central core by limiting non-residential use. The C-2-A zone that includes the subject Property generally encompasses buildings fronting Wisconsin Avenue or M Street over more than two dozen contiguous blocks. In this case, the proposed commercial expansion would result in the loss of one residential unit. Because of the unique features of the subject Property, the limited impact of a single lost residential unit, the site specific challenges to strictly complying with the zoning regulations while providing a competitive commercial use, and the absence of any increase in gross floor area or FAR, the intent and integrity of the C-2-A zone would not be significantly impaired.

VII. ANC/COMMUNITY COMMENTS

OP has not received any submission from ANC-2E. OP also has not received any submissions by abutting neighbors of the site. The Applicant has indicated that abutting neighbors to the north and south of the Property have expressed concerns regarding noise, although the Applicant believes that outstanding issues have been addressed. The Applicant also has stated that he has collected several dozen letters of support from customers of Wisey's, but OP has not yet received a copy of the letters.

VIII. CONCLUSION AND RECOMMENDATION

The Office of Planning **recommends approval** of the requested relief.

JLS/pg
Paul Goldstein, case manager