

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Brandice Elliott, AICP, Development Review Specialist
JL Joel Lawson, Associate Director Development Review
DATE: October 9, 2020

SUBJECT: BZA Case 20289 (400 Seward Square, S.E.) to permit an addition of three units to an existing 14-unit apartment building in the RF-3 zone.

I. OFFICE OF PLANNING RECOMMENDATION

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

- Density for Apartment Houses, Subtitle E § 201.7, pursuant to Subtitle X § 1000 (900 sq. ft. of lot area per dwelling unit required (3 units); 246 sq. ft. of lot area per dwelling unit existing (14 units); 202 sq. ft. of lot area per dwelling unit proposed (17 units)).

II. LOCATION AND SITE DESCRIPTION

Address	400 Seward Square, S.E.
Applicant	Sullivan & Barros LLP for 400 Seward Square LLC
Legal Description	Square 819, Lot 28
Ward, ANC	Ward 6, ANC 6B
Zone	The RF-3 zone provides for areas adjacent to the U.S. Capitol precinct predominantly developed with row houses on small lots within which no more than two dwelling units are permitted. Existing apartment houses are permitted limited expansion pursuant to E § 201.7.
Historic District	Capitol Hill Historic District
Lot Characteristics	The rectangular corner lot has 3,445 square feet of area and 41.14 feet of frontage along Seward Square. The property has 83.75-feet of frontage along 4 th Street. The lot does not have alley access.
Existing Development	The property is currently developed with a four-story apartment house with a cellar, consisting of 15 dwelling units, although the certificate of occupancy is for only 14 dwelling units.
Adjacent Properties	To the north are existing row buildings. To the south, across Seward Square, is green open space provided by Seward Square. To the east is a three-story apartment house. To the west, across 4 th Street, is a four-story mixed-use building.

Surrounding Neighborhood Character	The surrounding neighborhood character is predominantly moderate density residential, consisting of row buildings and small apartment houses. Pennsylvania Avenue is characterized by mixed-use development.
Proposed Development	The applicant proposes to legitimize one existing residential unit in the 15-unit apartment house and to add two new residential units in the cellar. In total, there would be 17 residential units where the current Certificate of Occupancy is for only 14 units. The RF-1 Zoning Regulations permit additions to existing apartment houses provided that there is 900 square feet of land area per unit; however, the proposed expansion would result in 202 square feet of land area per unit.

III. ZONING REQUIREMENTS and RELIEF REQUESTED

Zone – RF-1	Regulation	Existing	Proposed	Relief
Lot Width § 201	40 ft.	41.14 ft.	No change	None required
Lot Area § 201	4,000 sq.ft. min.	3,445 sq.ft.	No change	Existing nonconforming
Density § 201	900 sq. ft. land area per unit (3 units)	246 sq. ft. land area per unit (14 units)	202 sq. ft. land area per unit (17 units)	Required
Pervious Surface § 204	20%	Not provided	No change	None requested
Height § 303	35 ft. max.	Not provided	No change	None requested
Lot Occupancy § 304	60% max.	Not provided	No change	None requested
Front Setback §305	Within the range of existing front setbacks on the same side of the street	Not provided	No change	None requested
Rear Yard § 306	20 ft. min.	Not provided	No change	None requested
Parking C § 701	1 space per 2 units	0 spaces	No change	None requested

IV. OFFICE OF PLANNING ANALYSIS

a. Area / Use Variance Relief from Subtitle E § 201.7, Apartment House Density

i. Extraordinary or Exceptional Situation or Condition Resulting in Peculiar and Exceptional Practical Difficulties / Exceptional or Undue Hardship To the Property Owner

a. Extraordinary or Exceptional Situation

The applicant has provided that the subject property is extraordinary because it is improved with a purpose-built apartment building that was constructed in 1905 and became legally nonconforming

upon the adoption of the 1958 Zoning Regulations. The interior layout of the building is also exceptional, as the laundry facilities that were originally located in the cellar as an amenity for the residents have been removed, and washers and dryers have been installed in individual units. As a result, the cellar is vacant and currently not occupied by any other use.

b. Exceptional Practical Difficulties / Exceptional or Undue Hardship

The applicant has indicated that the internal layout of the apartment house is such that the cellar cannot be practically incorporated into the existing cellar units or ground floor units above. The floor plan of the existing cellar level at Exhibit 6 shows that existing unit B2 is separated from the subject space by a load bearing wall, and units B1 and B3 are separated from the subject space by the building's stairwell.

The relocation of load bearing walls and stairwells in the cellar would cause practical difficulties to the owner of the property, as it would be difficult, costly and disruptive to existing tenants. The resulting floor plan would create units that would be inconsistent with the size of existing units in the building. In addition, incorporating the space into the units on the first floor would result in the necessary addition of circulation that would create inefficiencies and potentially reduce the functionality of each unit.

If relief is not granted for the existing unit that is not permitted by the Certificate of Occupancy, it would result in the removal of a unit that is currently occupied. Removal of the unit would result in vacant space within the building that would be practically difficult to convert for another purpose, such as a building amenity.

Leaving the cellar unoccupied could result in maintenance and security issues that would pose safety risks to tenants, as it is the lowest level of a corner lot that has high visibility.

ii. No Substantial Detriment to the Public Good

The proposed additional units should not pose substantial detriment to the public good. Exterior modifications to the building are not proposed, as the units would be fully contained in the existing cellar area. Neighbors abutting the building should be minimally impacted, since the cellar would not require additional excavation for the conversion. In addition, the neighborhood is a mix of uses along Pennsylvania Avenue, including residential and commercial, where additional residential density is appropriate.

iii. No Substantial Impairment to the Intent, Purpose, and Integrity of the Zoning Regulations

The addition of three units in an existing 14-unit, purpose-built apartment house should not cause substantial harm to the Zoning Regulations. The apartment house predates the 1958 Zoning Regulations and is an existing nonconforming building. The requested relief would allow the applicant to make use of otherwise unusable space in the cellar to create two additional dwellings in a mixed-use, transit-accessible neighborhood. An existing unit that is not permitted by the Certificate of Occupancy has been in existence for several years and has been occupied, so the impact to the neighborhood would be negligible. There are no exterior modifications proposed for the building, so

the height and massing of the structure would continue to be appropriate for the neighborhood in which it is located.

V. OTHER DISTRICT AGENCIES

District Department of Transportation has filed a report at Exhibit 14 indicating that it has no objection to the application.

VI. ADVISORY NEIGHBORHOOD COMMISSION

As of the date of this filing, comments from the ANC had not been filed.

VII. COMMUNITY COMMENTS TO DATE

As of the date of this filing, comments from the community had not been filed.

Location Map

