



P. O. Box 15264 Washington DC 20003-0264  
202-543-0425

October 20, 2020

Sara Benjamin Bardin  
Director, Office of Zoning  
Suite 210  
441 4<sup>th</sup> Street, NW  
Washington, DC 20001

RE: BZA# 20289—400 Seward Square, SE

Dear Director Bardin,

This case involves the application of 400 Seward Square LLC for an area variance from the lot area requirements to permit an addition of 3 units to the existing 14-unit apartment building in the RF-3 Zone at 400 Seward Square S.E. The lot contains 3,445 square feet. An apartment building in any RF zone requires 900 square feet of land area per apartment and, in this case, 3 units would be allowed as a matter of right. The current number of 14 apartments requires a lot that is 11,700 square feet and the request for 17 apartments requires a lot that is 15,300 square feet. The committee voted to oppose the application.

It must be noted that the subject property is far from unique. Although Capitol Hill is thought of as being a row house neighborhood, there are numerous, nonconforming apartment houses such as this in almost every square.

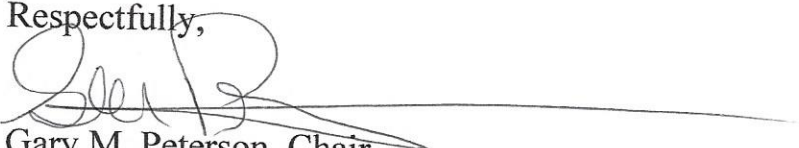
Based on the facts here, the Committee concluded that the applicants failed to show any extraordinary or exceptional situation of condition,

“uniqueness”, of the subject property. When determining whether a property is unique for a variance, “the critical point is that the extraordinary or exceptional condition must affect a single property.” *Gilmartin v. District of Columbia Board of Zoning Adjustment*, 579 A.2d 1164,1168 (D.C. 1990). If there are a number of similar properties then granting the variance would undermine its purpose of avoiding unfair or unconstitutional consequences which may arise in certain individual instances. *See, e.g., Goreib v. Fox*, 274 U.S. 603, 607 (1927). A variance is an exception to the rule, must not be granted lightly and must arise out of an exceptional condition affecting a particular property, and not, as here, a number of nonconforming properties. Granting this application means that every apartment building on Capitol Hill can receive a variance, something that should be accomplished through an amendment to the zoning regulations.

Finally, there is no practical difficulty because there are other uses for the basement space. There is no onsite garbage storage and no place to park bicycles. Both must be provided. The empty space could be converted amenities such as an exercise room, party room, and lounge. These amenities are provided in other apartments and the applicant could probably charge more rent if these are provided.

For these reasons, the Capitol Hill Restoration Society believes the application should be denied.

Respectfully,

  
Gary M. Peterson, Chair  
Capitol Hill Restoration Society  
Zoning Committee