District of Columbia
Office of Planning

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Crystal Myers, AICP, Case Manager
MBR Maxine-Brown Roberts, Associate Director, Development Review

DATE: October 9, 2026

SUBJECT: BZA Cases 21491 — Area Variance to permit three units to an existing 14-unit apartment house building in the RF-1/CAP zone.

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends **approval** of the following area variance pursuant to Subtitle X § 1002:

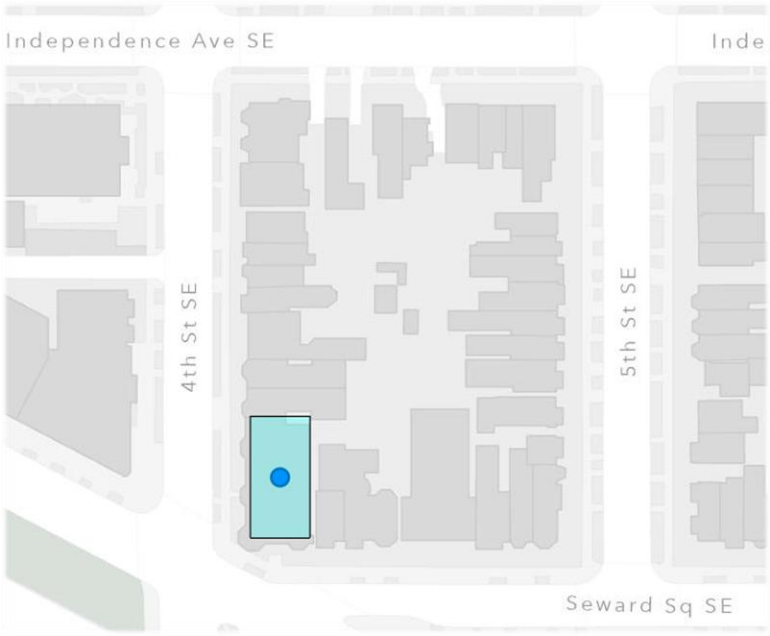
- Subtitle U § 301.5(b) - An Apartment house constructed prior to 1958 or 1981 may be expanded if the property has at least 900 sq. ft. per unit.

II. LOCATION AND SITE DESCRIPTION

Applicant	400 Seward Square, LLC
Address	400 Seward Square, SE
Legal Description	Square 819, Lot 28
Ward, ANC	Ward 6, ANC 6B
Zone	RF-1/CAP
Historic District	Capitol Hill Historic District
Lot Characteristics	3,445 sq. ft. rectangular, corner lot that does not have alley access.
Existing Development	The property is currently developed with a four-story apartment building with a cellar. The building has 15 units but has a Certificate of Occupancy for 14 units.
Previous BZA case	The property is governed by BZA Order 20289
Adjacent Properties	The adjacent properties are rowhouses to the north and an apartment building to the east.
Surrounding Neighborhood Character	The neighborhood mostly consists of rowhouses and small apartments. There are a mix of residential and commercial uses along Pennsylvania Avenue, and the property is near Capital South Metrorail station.
Proposed Development	Request to permit three additional units in an apartment building that has less than the required 900 sq. ft. per dwelling unit.

Board of Zoning Adjustment
District of Columbia
CASE NO. 21491
EXHIBIT NO. 25

LOCATION MAP



III. ZONING REQUIREMENTS AND RELIEF TABLE

RF-1/CAP Zone	Regulation	Existing	Proposed	Relief
Lot Area E § 202	4,000 sq. ft. min.	3,445 sq. ft.	No change	
Lot Width E § 202	40 ft. min.	41.14 ft.	41.14 ft.	Conforming
Height E § 203	35 ft./3 stories max.	Not provided	No change	Conforming
Rear Yard E § 207	20 ft. min.	Not provided	No change	Existing
Density U § 301.5	900 sq. ft. of land area per unit	246 sq. ft. of land area/unit (14 units) Existing Non-conformity	202 sq. ft. of land area/unit (17 units)	**Variance Requested**
Parking C § 702.4	1 space per 2 units	0 spaces	No change	Conforming

IV. BACKGROUND

In 2020, the building had a Certificate of Occupancy (C of O) for 14 dwelling units, although there were actually 15 units in the building. The applicant sought variance relief to allow the legalization

of a 15th unit and to convert the cellar space into two additional dwelling units for a total of 17 units. The BZA approved the request, BZA Order 20289, effective November 18, 2020, which stated that the Order was effective for two years in which to obtain a Building Permit. The Applicant subsequently obtained the necessary Building Permits within the two years, but the permits subsequently expired before the approved work was completed. Both the Applicant and their architect were unaware that a time extension was required to maintain the validity of the Building Permit. They also did not request to extend the time to begin construction. Therefore, both the BZA Order and Building Permit have expired.

Now that financing has been secured, the Applicant is reapplying for the same approvals. According to the Applicant, the property remains in the same condition as when it was reviewed in 2020.

V. OFFICE OF PLANNING ANALYSIS

Area Variance Relief from Subtitle X § 1002

Extraordinary or Exceptional Situation

The subject property is improved with a legally nonconforming apartment building that was constructed in 1905. The building contains a longstanding fifteenth unit that was created by a previous owner and has existed since at least the 1970s; however, this unit is not reflected in the building's certificate of occupancy. The interior layout of the building is also exceptional. The building originally had a laundry room in the cellar, but it was later removed when laundry facilities were added to individual units. As a result, the cellar space is vacant.

Resulting Practical Difficulty

Following renovations of the building, the laundry and storage facilities were removed from the cellar and placed in each unit leaving the space empty.

When evaluating alternative options for the cellar space, the Applicant determined that the building's internal layout does not allow the vacant cellar area to be practically incorporated into either the existing cellar units or the ground-floor units above. As shown in the existing basement/cellar floor plans in the architectural plans, Unit B2 is separated from the subject space by a load-bearing wall, and Units B1 and B3 are separated from it by the building's stairwell.

Relocating the building's 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 in size and configuration with the existing units in the building. In addition, incorporating the space into the units on the first floor would require additional circulation that would create inefficiencies and potentially reduce the functionality of each unit. Without the relief, the Applicant would be unable to use a substantial portion of their cellar space which would be a practical difficulty.

If relief is not granted for the existing fifteenth unit, which is not currently recognized by the Certificate of Occupancy, it would result in the removal of a longstanding unit remaining vacant.

No Substantial Detriment to the Public Good

The proposed additional units should not result in substantial detriment to the public good. No changes are proposed to the exterior of the building, and the units would be fully contained in the existing cellar area. Furthermore, an existing unit that is not permitted by the Certificate of Occupancy has been in existence for many years and has been occupied, so allowing it to continue

should have a negligible impact on the neighborhood. 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.

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

Granting the requested relief should not cause substantial harm to the Zoning Regulations. The requested relief would allow the applicant to legalize an existing unit and to activate otherwise unusable cellar space by creating two additional dwelling units in a mixed-use, transit-accessible neighborhood. No exterior modifications are proposed, so the building's height and mass would remain appropriate for its surrounding context.

VI. OTHER DISTRICT AGENCIES

Currently there are no comments in the record from other District agencies.

VII. ADVISORY NEIGHBORHOOD COMMISSION

Currently, there is no report from ANC 6B in the record.

VIII. COMMUNITY COMMENTS TO DATE

There is a letter in support at Exhibit 20 from an owner from a neighboring property.