

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Crystal Myers, Case Manager
^{JLS}
 for Joel Lawson, Associate Director, Development Review

DATE: April 13, 2018

SUBJECT: BZA #19737 – 500 13th Street, SE – Request for use variance relief to permit an office use in an existing RF-1 zoned building.

I. RECOMMENDATION

The Office of Planning (OP) recommends **Approval** of the following use variance relief:

- U § 301.1 (office use not permitted in the RF-1 zone, office use on **first** floor proposed).

The Office of Planning recommends **Denial** of the following use variance relief:

- U § 301.1 (office use not permitted in the RF-1 zone, office use on **second** floor proposed).

II. LOCATION AND SITE DESCRIPTION

Applicant	Cozen O’Connor on behalf of Petra Nikolow
Address	500 13 th ST, SE
Legal Description	Square 1043, Lot 817
Ward / ANC	Ward 6; ANC 6B
Zone	RF-1
Historic District or Resource	N/A
Lot Characteristics	Rectangular corner lot 19’ X 75’ lot on E Street, SE and 13 th ST SE.
Existing Development	2-story building with residential units on the second floor and commercial space on the ground
Adjacent Properties	Rowhouse and a mixed-use building in the rear
Surrounding Neighborhood Character	Residential and commercial uses

III. BACKGROUND AND PROPOSAL AND ZONING RELIEF

The Applicant, which is a local business with 13 employees, is requesting variance relief to permit an office use in a building zoned for residential use. The proposed building currently has a partially constructed rooming house configuration on the first floor and the owner occupies the residential unit on the second floor. It appears that the building was most likely constructed with commercial space on the ground floor and residential above.

In 2011 the owner pursued adding additional units in the building and received a rooming house certificate of occupancy but never completed the project.

ANALYSIS

In order to be granted a variance, the applicant must demonstrate that the application meets the three-part test of Subtitle X § 1000.

Use Variance Relief for First Floor

Exceptional Situation Resulting in an Undue Hardship

Though the building is zoned for residential use it was originally constructed for commercial use, such as a store, on the ground floor and residential above – a building typology not uncommon in this area. The building’s ground floor commercial space architectural characteristics include limited separation between the building and the sidewalk, large commercial bay windows, and a corner-facing door; these have resulted in a ground level floor plan with less than optimal design for residential.

As a result, according to the applicant, potential residential buyers have expressed concern about privacy being a concern for people living on the first floor. The owner says that they have been unable to sell the property for over seven years because it has been unattractive to residential buyers. The owners’ realtor notes that most residential properties in the area sell within 21 days, so this property’s longevity on the market is exceptional for the neighborhood.

No Substantial Detriment to the Public Good

An office use on the first floor of the building should not represent a substantial detriment to the public good. There is a mix of uses in the area and many of the properties closest to the building have commercial uses on their first floors. On-street parking is available for those who choose to drive but the Applicant does not expect to need a significant amount of parking. Most of the Applicant’s employees live in the area and would continue walking or biking to work. The site is approximately a quarter mile from the Potomac Avenue metro station so the Applicant expects most of their visitors to use metro or walk to the building. The District Department of Transportation has reviewed the application and has issued a report noting no objection to the application.

No Substantial Harm to the Zoning Regulations

Allowing an office use on the first floor, in this case, should result in no substantial harm to the zoning regulations. The office use would be located in a portion of the building designed and intended for non-residential use.

Use Variance Relief for Second Floor

Exceptional Situation Resulting in an Undue Hardship

Unlike for the first floor, the applicant has not presented evidence of an exceptional situation resulting in an undue hardship for the conversion of the second floor from permitted residential to non-permitted commercial use. Unlike the first floor, the second floor has a fully constructed dwelling unit and a typical residential floor plan.

No Substantial Detriment to the Public Good

Conversion of the upper level from residential to commercial would be a substantial detriment to the public good. Losing a residential unit is contrary to the character and zoning of the immediate neighborhood. The complete change in use of the building brings commercial activities further into the residential portion of the neighborhood and competes with the existing commercial corridors less than a block away.

No Substantial Harm to the Zoning Regulations

Conversion of the second floor from the zoning-intended residential use to a non-permitted commercial use would cause substantial harm to the intent and the integrity of the RF zoning regulations. Non-residential uses are purposefully limited in the RF zone, and commercial uses are restricted, to protect the character of residential areas and to preserve existing housing stock.

The purpose of the RF zones is stated in Subtitle E § 100.3 as:

- 100.3 In addition to the purpose statements of individual chapters, the provisions of the RF zones are intended to:
- (a) Recognize and reinforce the importance of neighborhood character, walkable neighborhoods, housing affordability, aging in place, *preservation of housing stock*, improvements to the overall environment, and low- and moderate-density housing to the overall housing mix and health of the city;
 - (b) Allow for limited compatible non-residential uses;

In addition, there are multiple commercially zoned areas in the neighborhood where this use would be permitted, consistent with the intent of those zones.

IV. COMMENTS OF OTHER DISTRICT AGENCIES

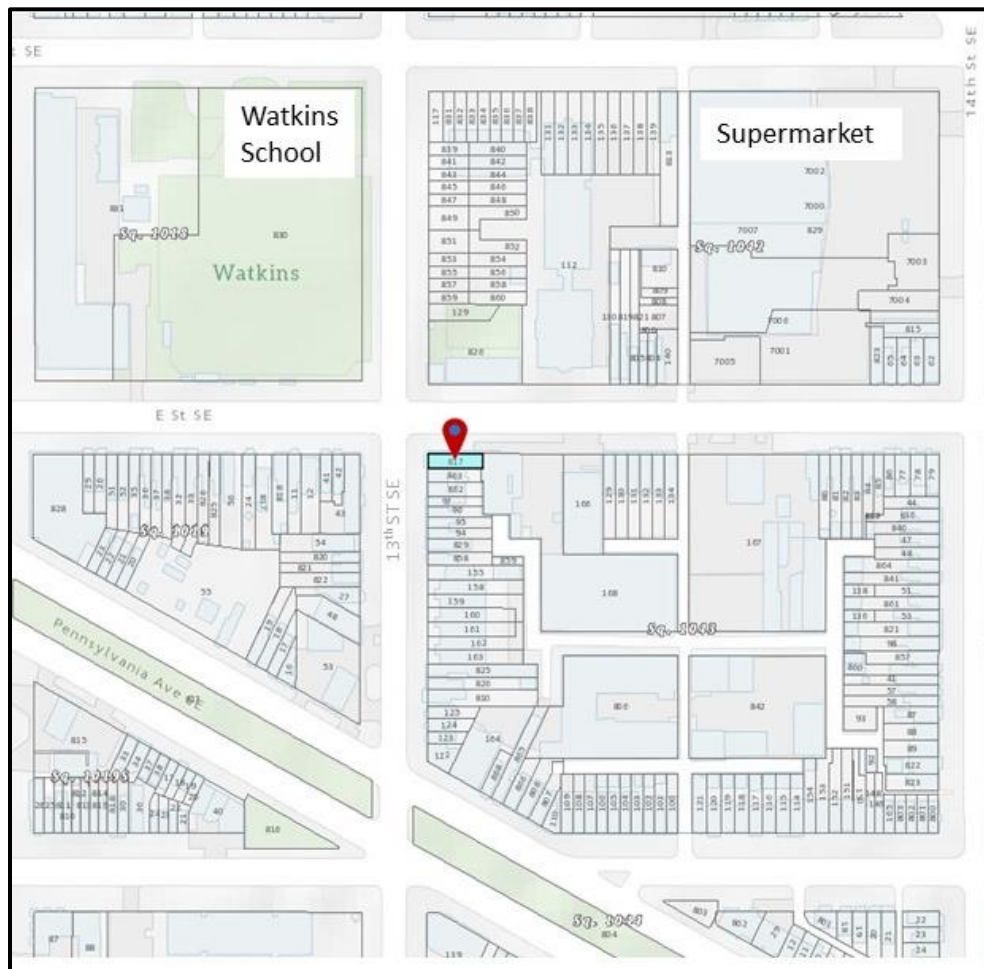
DDOT submitted a report with no objection to the proposal (Exhibit 84). As of the writing of this report, no other District Agency comments have been submitted.

V. COMMUNITY COMMENTS

The record currently contains over fifty letters of support (Exhibits 30-82) from the community. As

of the writing of this report, ANC 6B has not submitted a report but the Applicant informed OP the ANC voted in support.

VI. LOCATION MAP



500 13th Street SE Location Map