

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Elisa Vitale, Case Manager
JL Joel Lawson, Associate Director Development Review
DATE: September 6, 2019
SUBJECT: BZA Case 20106 328 Kentucky Avenue, SE to permit construction of a two-story dwelling unit addition to an existing commercial building in the RF-1 zone.

I. OFFICE OF PLANNING RECOMMENDATION

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

- Lot Occupancy, Subtitle E § 304.1, pursuant to Subtitle X § 1000 (60% maximum permitted; 100% existing; 100% proposed).

The applicant has requested relief from parking requirements, although Subtitle C § 702.3(a) may exempt this site from parking requirements, since there is no alley. However, in case it is determined that the regulations would require on-site parking, OP has provided analysis and recommends **approval** of the following special exception relief:

- Parking, Subtitle C § 701.5, pursuant to Subtitle C § 703.2 (1 parking space minimum required; 0 parking spaces existing; 0 parking spaces proposed).

OP notes that the Applicant is showing cafe seating associated with the ground floor commercial use, which would be considered an expansion of the existing nonconforming use. The applicant was made aware of this, but at the time this report was drafted, had not addressed this issue or requested relief to expand the nonconforming use.

II. LOCATION AND SITE DESCRIPTION

Address	328 Kentucky Avenue, SE
Applicant	PGN Architects, agent, on behalf of Jorge Ventura, owner.
Legal Description	Square 1039S, Lot 17
Ward, ANC	6 / 6B
Zone	RF-1 – intended to provide for areas predominantly developed with row houses on small lots within which no more than two dwelling units are permitted.
Lot Characteristics	Triangular lot bounded by 14 th Street SE to the east, Kentucky Avenue SE to the west, and an adjoining lot to the north.
Existing Development	The property is improved with a one-story nonconforming commercial building. The existing commercial use is grandfathered.

Adjacent Properties	The adjacent property at 326 Kentucky Avenue SE is improved with a residential row building. The adjacent property to the south is a federal reservation.
Surrounding Neighborhood Character	The surrounding neighborhood is residential in character with Payne Elementary School located to the east across 14 th Street SE.
Proposed Development	The Applicant is proposing to construct a two-story addition above the existing commercial building that would provide one dwelling unit.

III. ZONING REQUIREMENTS and RELIEF REQUESTED

Zone – RF-1	Regulation	Existing	Proposed ¹	Relief
Lot Width E § 201	18 ft.	42 ft.	42 ft.	None Required
Lot Area E § 201	1,800 sq. ft. min.	581 sq. ft.	581 sq. ft.	Existing Nonconforming
Height E § 303	35 ft. max.	13 ft.	35 ft.	None Required
Lot Occupancy E § 304	60% max.	100%	100%	REQUESTED
Rear Yard E § 306	20 ft. min.	0 ft.	0 ft.	None Required
Front Setback E § 305	Existing range of blockface	Existing range of blockface	Existing range of blockface	None Required
Side Yard E § 207	N/A	0 ft.	0 ft.	None Required
Parking C § 701	1 parking space	0 parking spaces	0 parking spaces	REQUESTED

IV. OFFICE OF PLANNING ANALYSIS

a. Variance Relief from Subtitle E § 304.1, lot occupancy

i. Exceptional Situation Resulting in a Practical Difficulty

The subject property is an irregularly shaped lot. At 581 square feet in area, the triangular lot is approximately one-third the minimum required lot area in the RF-1 zone.

The existing building is nonconforming with respect to lot occupancy and covers 100% of the lot. The Applicant is proposing to add a dwelling unit above the existing ground floor commercial. A conforming addition that did not exceed the 60% maximum permitted lot occupancy would result in an approximately 350 square foot floor area (including wall thickness) or just under 700 square feet across the two proposed floors. The exceptionally irregular lot shape and small footprint result in a practical difficulty.

Allowing the Applicant to extend the nonconforming lot occupancy, by constructing a two-story addition that mirrors the existing footprint, results in a more rationale footprint and a more reasonable, if still small, dwelling unit.

¹ Information provided by Applicant, Exhibit 12, June 24, 2019.

ii. No Substantial Detriment to the Public Good

The existing building on the property occupies 100% of the lot and the proposed addition would extend the footprint an additional two stories. The proposal would not exceed the maximum permitted height (35 feet) or stories (3 stories) in the RF-1 zone. The only adjacent house, to the north, is two stories in height, and most of the rowhouses on this block are two to three stories. The addition of a new dwelling unit on this site is also in the public good.

iii. No Substantial Harm to the Zoning Regulations

The Applicant is proposing to construct one dwelling unit in the RF-1 zone, which is consistent with the intent and purposes of the Zoning Regulations.

b. Special Exception Relief from Subtitle C § 701.5, Minimum Parking Number Requirements

703.2 *The Board of Zoning Adjustment may grant a full or partial reduction in number of required parking spaces, subject to the general special exception requirements of Subtitle X, and the applicant's demonstration of at least one (1) of the following:*

(a) Due to the physical constraints of the property, the required parking spaces cannot be provided either on the lot or within six hundred feet (600 ft.) of the lot in accordance with Subtitle C § 701.8;

The property is triangular and fully occupied by the existing building on the lot. Furthermore, the property is not served by an alley and does not have a curb cut.

(b) The use or structure is particularly well served by mass transit, shared vehicle, or bicycle facilities;

The property is within .3 miles, or a 5-minute walk, of the Potomac Avenue Metro Station, which is served by the Blue, Orange and Silver lines.

(c) Land use or transportation characteristics of the neighborhood minimize the need for required parking spaces;

The Capitol Hill neighborhood is walkable and well-served by public transportation.

(d) Amount of traffic congestion existing or which the parking for the building or structure would reasonably be expected to create in the neighborhood;

The property does not have alley access, nor does it have an existing curb cut. Construction of a curb cut would result in the loss of an existing on-street parking space.

(e) The nature of the use or structure or the number of residents, employees, guests, customers, or clients who would reasonably be expected to use the proposed building or structure at one time would generate demand for less parking than the minimum parking standards;

The existing commercial business has operated without dedicated off-street parking. The Applicant is proposing to construct one dwelling unit above the existing commercial. In the RF-1 zone, parking would not be required for a dwelling unit that does not have alley access (C § 702.3(a)).

(f) All or a significant proportion of dwelling units are dedicated as affordable housing units;

The dwelling unit is not proposed to be an affordable housing unit; therefore, this section is not applicable.

(g) Quantity of existing public, commercial, or private parking, other than on-street parking, on the property or in the neighborhood, that can reasonably be expected to be available when the building or structure is in use;

There is not available commercial off-street parking available to serve the subject property.

(h) The property does not have access to an open public alley, resulting in the only means by which a motor vehicle could access the lot is from an improved public street and either:

- (1) A curb cut permit for the property has been denied by the District Department of Transportation; or*
- (2) Any driveway that could access an improved public street from the property would violate any regulation of this chapter, of the parking provisions of any other subtitle in the Zoning Regulations, or of Chapters 6 or 11 of Title 24 DCMR;*

The subject property does not have access to an open public alley.

(i) The presence of healthy and mature canopy trees on or directly adjacent to the property;
or

Kentucky Avenue features mature street trees which could be impacted by a new curb cut, and the property is bordered to the southeast by a federal reservation that is landscaped with mature vegetation.

(j) The nature or location of a historic resource precludes the provision of parking spaces; or providing the required parking would result in significant architectural or structural difficulty in maintaining the integrity and appearance of the historic resource.

The subject site does not consist of a historic resource, so this provision does not apply.

703.3 Any reduction in the required number of parking spaces shall be only for the amount that the applicant is physically unable to provide, and shall be proportionate to the reduction in parking demand demonstrated by the applicant.

The property lacks curb cuts and the existing building on the site occupies 100% of the lot. Therefore, the Applicant is unable to provide the required parking space for the new dwelling unit without significantly negatively impacting the ground floor of the building and the public space.

703.4 Any request for a reduction in the minimum required parking shall include a transportation demand management plan approved by the District Department of Transportation, the implementation of which shall be a condition of the Board of Zoning Adjustment's approval.

The Applicant has not yet provided a transportation demand management to DDOT for review, however the reduction of one parking space for a residential unit would not be expected to have a significant impact on area parking or transportation networks, whereas a requirement to add a curb cut to provide on-site parking would negatively impact street parking and the pedestrian sidewalk.

V. COMMENTS OF OTHER DISTRICT AGENCIES

Comments from other District Agencies had not been entered to the record as of the date of this report.

VI. COMMUNITY COMMENTS TO DATE

Comments from community members, including ANC 6B, had not been entered to the record at the time this report was written.

JL/emv

Attachment: Location Map



Location Map: 328 Kentucky Avenue SE