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October 15, 2019

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

RE: BZA#20106—328 Kentucky Avenue, SE

Dear Director Bardin,

The subject property, zoned RF-1, is a triangular lot with frontage on both Kentucky Avenue, SE and 14<sup>th</sup> Street, SE, and contains 585 SF. Abutting the lot, to the south, is a small triangle park which is public space. The property is 100 % occupied by a one-story commercial building that currently houses a liquor store, a non-conforming use. There are extensive bay windows facing both streets and the building, with the bays, contains more than 800 SF. This property is nonconforming in the extreme in both area and use. The applicant proposes to add two additional floors that will contain one residential unit. The addition will stay within the lot lines. The entrance to the unit will be from 14<sup>th</sup> Street. There is no provision for storage of trash inside the building. The applicant has applied for a variance from the lot occupancy requirements and a special exception from the parking requirements. I believe that they also need a variance from the rear yard requirement.<sup>1</sup>

The test for a variance is: "[w]here, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the original adoption of the regulations, or by reason of exceptional topographical conditions or other extraordinary

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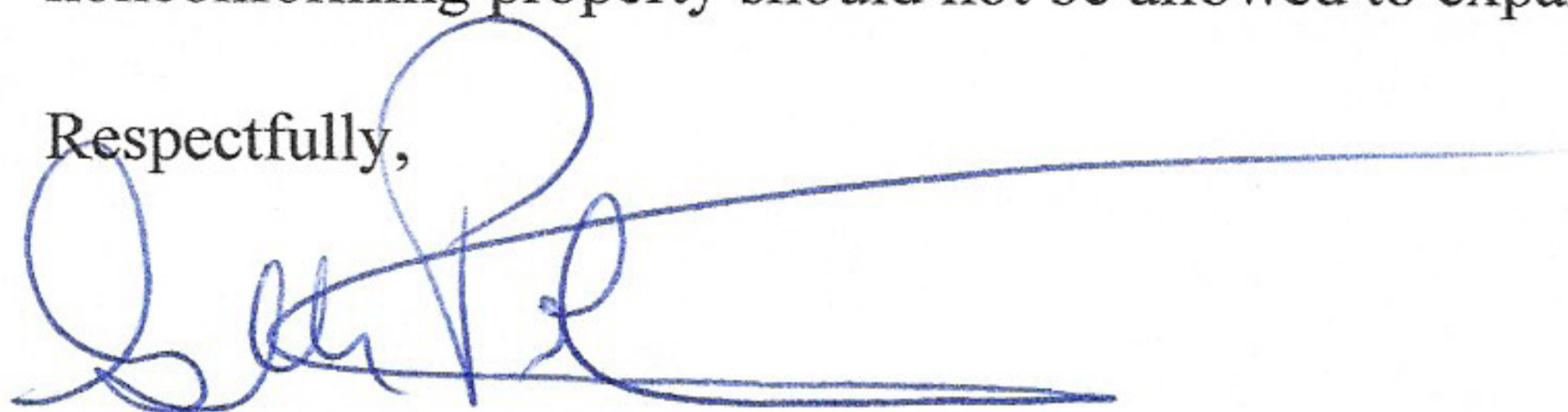
<sup>1</sup>Under section 317.3 No rear yard is required for through lots. However, this lot does not meet the definition of a through lot because it is not an interior lot: "Lot, through: An interior lot having frontage on two (2) or more streets where the streets differ in direction by forty-five degrees (45°) or less."

or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under D.C. Official Code §§ 6-641.01 to 6-651.02 would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, to authorize, upon an appeal relating to the property, a variance from the strict application so as to relieve the difficulties or hardship; provided, that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map."

This application is for an area variance and the new regulations have added the following for area variances: "(a) An applicant for an area variance must prove that, as a result of the attributes of a specific piece of property described in Subtitle X § 1000.1, the strict application of a zoning regulation would result in peculiar and exceptional practical difficulties to the owner of property;"

The property meets the first test by virtue of its triangular shape and two street frontages. The question is whether the owner is suffering peculiar and exception practical difficulties. The strict application of the zoning regulations would **not** result in peculiar and exceptional practical difficulties to the owner of the property because there is a viable and ongoing use of the property. It is currently used as a retail establishment licensed to sell alcohol. The property owner has proposed to continue the retail operation if a two-bedroom residential unit addition is built. Obviously, there is no exceptional practical difficulties to the property owner if he can continue the retail use of this property. This nonconforming property should not be allowed to expand the nonconformity.

Respectfully,



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