


Staff Report

TO: District of Columbia Board of Zoning Adjustment
FROM: Crystal Myers, Case Manager
 Joel Lawson, Associate Director Development Review
DATE: October 18, 2019
SUBJECT: BZA #20135 – 3428 O ST NW -- variance relief for a prepared food shop use within a commercial space in a residential zone

I. OFFICE OF PLANNING RECOMMENDATION

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

- Subtitle U§ 201.1 Use Requirement- to permit a prepared food shop
- Subject to the following condition:
- Hours of public operation shall be from 7:00 AM to 3:00 PM.

This condition is consistent with the description of the business operation from the applicant, would help to ensure that the business is mainly neighborhood serving, and would mitigate potential impacts of the business’ operations on the surrounding neighborhood.

II. LOCATION AND SITE DESCRIPTION

Address	3428 O ST NW
Applicant:	Sullivan & Burros, LLP
Legal Description	Square 1228, Lot 76
Ward / ANC	Ward 2; ANC 2E
Zone	R-20
Historic District or Resource	Georgetown Historic District
Lot Characteristics	30.29’ x 20.38’ alley lot.
Existing Development	Two-story mixed-use building with one dwelling unit on the second floor and commercial space on the first floor.
Adjacent Properties	Both adjacent properties have rowhouses
Surrounding Neighborhood Character	The neighborhood is predominantly residential with a few other commercial uses within buildings on 35 th ST NW
Proposal	The requested relief would allow for a prepared food shop use to operate in the building’s commercial space.

III. LOCATION MAP



IV. ANALYSIS

Variance Relief pursuant to X § 1000 to allow for a prepared food shop use in the R-20 Zone

Exceptional Situation Resulting in a Practical Difficulty:

This Applicant is requesting variance relief to operate a prepared food bagel shop in a building zoned for residential use. The building is exceptional in that its first floor and basement were designed and built as commercial space and have always been used for commercial purposes.

Variance relief has been previously granted for commercial use of the space. The previous use, an flower / gift shop, which is a retail use, was granted variance relief in 1973 (BZA 11248). Accordingly, the Zoning Administrator granted the current Applicant a permit to operate their bagel shop as a retail business in this space. Employees are permitted to sell bagels to customers but are not permitted to toast and prepare them.

Though the building is zoned R-20, which is primarily for single-family residential developments, the first floor and basement of this building have never been used for residential purposes. Originally, the building was constructed with residential units on the second floor and a grocery store on the first floor and basement. In the early 1970s, a health store replaced the grocery store and later the flower shop occupied the space.

Since the building's first floor and basement have always been used for commercial purposes, they have a commercial configuration. The building has a corner entrance and large display store windows on the first level.

Converting the retail space to a residential unit would be impractical, expensive and significantly burdensome on the owner. It would require a complete redesign of the first floor and extensive renovations to the building, and due to the configuration of the building, would be unlikely to result in desirable residential space.

No Substantial Detriment to the Public Good:

The proposed use should not result in a substantial detriment to the public good. The store would be open every day between the hours of 7:00AM and 3:00 PM with deliveries occurring around 6:00AM. The shop would have 3-6 employees per shift. Customer flow should be quick and efficient to minimize lines and foot traffic in front of the building. No seating would be provided in the store and customers would not be encouraged to stand in front of the building after receiving their orders. Trash would be collected every day by a private company and the store would have weekly pest control. The inclusion of a condition regarding the hours of operation, as proposed by OP and consistent with the application, would help to mitigate potential impacts of the use.

No Substantial Harm to the Zoning Regulations:

The prepared food shop use should not substantially harm the zoning regulations. Although this form of commercial use is not permitted as a matter-of-right in this zone, the building has always been mixed-use with residential on the second floor and commercial on the first floor and basement. Consequently, the floor layout on these lower levels is not conducive for residential use, while the upper story would remain residential consistent with the intent of the zone – in this case, no residential unit would be lost.

V. COMMENTS OF OTHER DISTRICT AGENCIES

A DDOT report notes no objection to this proposal. Historic Preservation staff has no objection to the requested variance relief. As of the writing of this report, no other District agency comments have been submitted to the record.

VI. COMMUNITY COMMENTS

An ANC report in support of this proposal is in the record at Exhibit 38, with no conditions recommended.

The Citizens Association of Georgetown submitted a letter in opposition, (Exhibit 33). A request for party status in opposition has been filed at Exhibit 36.

As of the writing of this report, no other community comments have been submitted to the record.