

Docket Item #2
BZA #2020-00023
Board of Zoning Appeals
January 11, 2021

ADDRESS: 113 SOUTH SAINT ASAPH STREET
ZONE: CD/COMMERCIAL DOWNTOWN
APPLICANT: ZACHARY BURSON COTTER

ISSUE: Variances from the required side and rear yards, lot size and frontage and maximum dwelling units per acre to convert an existing mixed-use building to a multifamily dwelling.

CODE SECTION	SUBJECT	CODE REQUIREMENT	APPLICANT PROPOSES	REQUESTED VARIANCE
4-505(B)(1)	Lot Size	4,980 Sq. Ft. *	2,602 Sq. Ft.	2,378 Sq. Ft.
4-505(B)(2)	Frontage	50.00 Ft.	20.35 Ft.	29.65 Ft.
4-506(A)(2)(b)(2)	Side Yard (North)	25.00 Ft.	0.00 Ft.	25.00 Ft.
	Side Yard (South)	25.00 Ft.	0.00 Ft.	25.00 Ft.
4-506(A)(2)(c)(2)	Rear Yard	25.00 Ft.	0.00 Ft.	25.00 Ft.
4-506(B)(2)	Maximum Dwelling Units	2	4	2

*1,245 square feet of lot area per dwelling unit is required.

BOARD OF ZONING APPEALS ACTION, DECEMBER 14, 2020: On a motion by Mr. Yoo, seconded by Mr. Poretz, the Board of Zoning Appeals moved to defer BZA Case #2020-00023. The motion carried on a vote of 6 to 0 with Ms. Nguyen excused.

Reason:

The Board found that complete, interior floorplans for the subject property would be necessary to evaluate whether the request met the variance standards.

Speakers:

Zachary Cotter, applicant, presented the case.

Mr. Perna asked for staff to explain how the Zoning Ordinance defines a first floor in the KR zone. He observed that the first floor of the building on the subject property is not ADA accessible. Staff

replied that the KR zone defines first floor as within four feet above the sidewalk. If the property were zoned KR, staff explained that the basement level of the subject building would be required to be occupied by commercial uses to qualify for relief from the residential lot, bulk and open space requirements under the accessory apartment provisions.

Mr. Yoo asked for staff to clarify the CD zone density requirements. Staff replied that the CD zone has a two-part density requirement based on lot size: 1,245 square feet of lot area per dwelling unit and a maximum of 35 dwelling units per acre. Staff explained that the by-right density for a multifamily dwelling on the subject property would allow for two dwelling units.

Mr. Wacławski asked for staff to clarify how many units were proposed by the applicant. Staff replied that the building contains two existing dwelling units and that the applicant proposes to reconfigure the interior space to create two additional dwelling units.

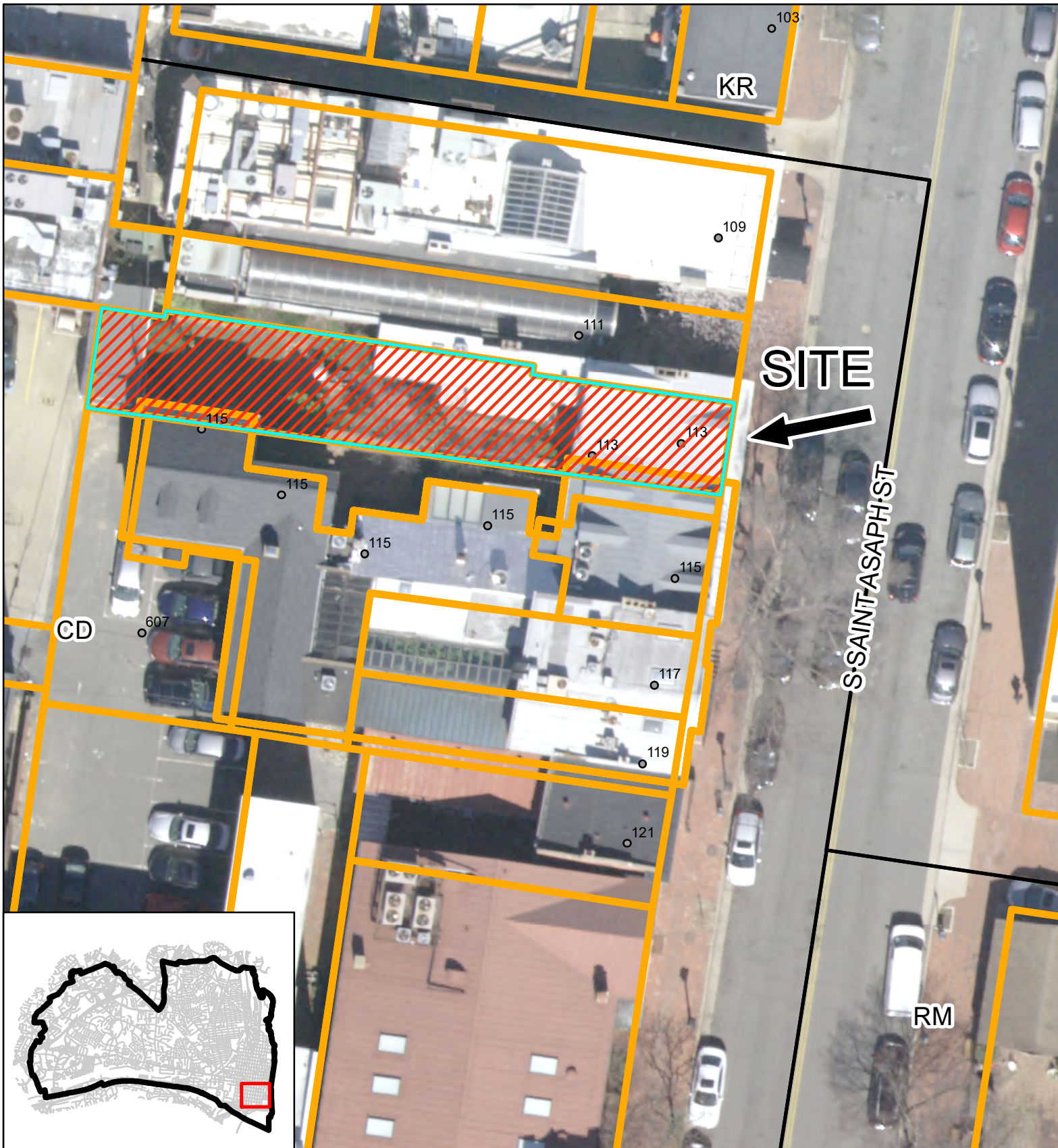
Chairman Altenburg stated the floorplans included with the docket did not show the complete, proposed floorplans. He felt that it was inappropriate to consider the case without these materials and suggested that the case be deferred.

Staff **recommends denial** of the request because it does not meet all the variance standards.

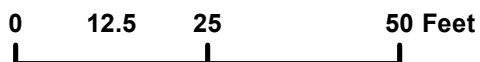
If the Board grants the requested variances, staff recommends the following condition:

The variance will be effective once the applicant has either: A) provided parking agreements for the two-required off-street parking spaces pursuant to section 8-200(C)(2), or B) received City Council approval for a parking reduction special use permit prior to P&Z approval of building permits or certificates of occupancy.

Additionally, any approval is subject to compliance with all applicable code requirements, ordinances and recommended conditions found in the department comments. The variances shall be recorded with the deed of the property in the City's Land Records Office prior to the release of the building permit.



BZA #2020-00023
113 South Saint Asaph Street



I. Issue

The applicants propose to convert an existing mixed-use building to a four unit multifamily dwelling at 113 South Saint Asaph Street. The Zoning Ordinance requires multifamily dwellings to comply with certain area and bulk regulations that are not required for the existing use of the building. Although the applicant proposes only interior renovations and no exterior changes nor expansion, the proposed change to a multifamily dwelling would not comply with these regulations. As such, the applicant requests variances from these requirements to allow the use of the property as a multifamily dwelling.

II. Background

The subject property is an interior lot of record with 20.35 feet of frontage along South Saint Asaph Street. The lot is 123.42 feet deep and 2,602 square feet in size. The subject property is located in the Old and Historic Alexandria Historic District (OHAD). A mix of commercial uses surround the subject property. The existing building was constructed as a residential dwelling circa 1785 and has contained a variety of commercial and residential uses over the years. Currently, two dwelling units and commercial spaces occupy the building.

The subject property provides access to the detached garage at its rear via the private parking lot and private alley connecting to South Washington Street, both adjacent to the west. The applicant has provided recorded easements to this effect. The garage provides one off-street parking space.

The subject property has been zoned CD/Commercial Downtown since June 1992. Prior to this date, the property was zoned C-3/Commercial. The subject property is not eligible for residential reversion as defined in Zoning Ordinance section 12-101(B) because the proposed number of residential units (four) exceeds the number that previously existed on the property (two).

In March 1975, Planning Commission approved a subdivision that adjusted the lot lines of the subject property and the adjacent property to the north. This approval established the subject property's lot lines in their current configuration.

On October 9, 1980, the Board of Zoning Appeals approved BZA Case #2008 that allowed an addition to the rear of the property in the required side yards. At that time, the C-3 zone required 16-foot side yards. The approval granted a 16-foot variance from the north side yard and an eight-foot variance from the south side yard to allow the addition 0.00 and 8.00 feet from the north and south side lot lines, respectively.

III. Description

Zoning Ordinance section 4-505(C) exempts the building's existing residential component from the CD zone's lot size and frontage requirements because it's occupied by fewer than three dwelling units. Section 4-506(A)(3), however, requires the building to comply with the residential yard and open space regulations. The subject property is not eligible for section 4-508 because the dwelling units are located on the same floor as the commercial uses, not above them.

The applicant proposes adding two dwelling units for a total of four dwelling units and eliminating the commercial uses entirely. The applicant's proposal would change the use of the building from mixed use to multifamily.

The proposed multifamily dwelling would not comply with most of the CD zone's area and bulk regulations. It would also only provide one of the three required, off-street parking spaces. The following table provides a breakdown of all applicable zoning regulations as they pertain to the proposal:

CD Zone	Required/Permitted		Provided/Proposed
	<i>Mixed-Use</i>	<i>Multifamily (4 units)</i>	
Lot Size	None	4,980 Sq. Ft. 1,245 Sq. Ft/Dwelling Unit	2,602 Sq. Ft.
Lot Frontage	None	50.00 Ft.	20.35 Ft.
Front Yard	0.00 Ft.	0.00 Ft.	0.00 Ft.
Side Yard (North)	5.00 Ft.	25.00 Ft.	0.00 Ft.
Side Yard (South)	5.00 Ft.	25.00 Ft.	0.00 Ft.
Rear Yard	16.00 Ft.	25.00 Ft.	0.00 Ft.
Net Floor Area	3,903 Sq. Ft. <i>1.5 FAR</i>	3,252 Sq. Ft. <i>1.25 FAR</i>	1,942 Sq. Ft. <i>0.75 FAR</i>
Density	2 Dwelling Units (35 units per acre)	2 Dwelling Units (35 units per acre)	4 Dwelling Units (67 units per acre)
Open Space	910.70 Sq. Ft. <i>35% of lot area</i>	1,040.80 Sq. Ft. <i>40% of lot area</i>	1,452 Sq. Ft. <i>56% of lot area</i>
Parking	0 Spaces	3 Spaces	1 Space

IV. Noncomplying Structure

The existing mixed-use structure provides noncomplying side and rear yards.

	<u>Required/Permitted</u>	<u>Provided</u>	<u>Noncompliance</u>
Side Yard (North)	5.00 Ft.	0.00 Ft.	5.00 Ft.
Side Yard (South)	5.00 Ft.	0.00 Ft.	5.00 Ft.
Rear Yard	16.00 Ft.	0.00 Ft.	16.00 Ft.

V. Master Plan/Zoning

The subject property has been zoned CD/Commercial Low since June 1992. The Old Town Small Area Plan indicates the area surrounding the subject property should contain a mix of commercial and residential uses for the City's downtown business core. The applicant's proposed use would be compatible with this indication.

VI. Requested Variances

4-505(B)(1) Lot size.

The CD zone requires 1,245 square feet of lot size per dwelling unit for multifamily dwellings. The applicant's proposed four dwelling units would require a lot size of 4,980 square feet. The subject property provides a lot size of 2,602 square feet. The applicants request a variance of 2,378 square feet from the CD zone lot size requirement.

4-505(B)(2) Frontage.

The CD zone requires 50.00 feet of frontage for multifamily dwellings. The subject property provides 20.35 of frontage. The applicants request a variance of 29.65 feet from the CD zone frontage requirement.

4-506(A)(2)(b)(2) Side yards.

The CD zone requires multifamily dwellings to provide two side yards of at least 25.00 feet each. The subject property provides no side yards. The applicant requests variances of 25.00 feet each from the CD zone side yard requirement.

4-506(A)(2)(c)(2) Rear yard.

The CD zone requires multifamily dwellings to provide a rear yard of at least 25.00 feet. The subject property provides no rear yard and the applicant requests a variance of 25.00 feet from the CD zone rear yard requirement.

4-106(B)(2) Residential density.

The CD zone establishes a maximum density of 35 dwelling units per acre for multifamily dwellings. The subject property, at 0.06 acres, could only have two dwelling units. The applicant requests a variance to allow a maximum density of 67 dwelling units per acre for the subject property to provide four dwelling units.

VII. Applicant's Justification for Variance

The applicants state that enforcement of the CD zone requirements would prevent the use of the property as a multifamily dwelling "...due to constraints that cannot be met (feasibly) within the historic property's construction."

VIII. Analysis of Variance Definition

Per zoning ordinance section 11-1103, the Board of Zoning Appeals shall not grant a variance unless it finds that the request meets the definition of a variance per zoning ordinance section 2-201.1 as follows:

- a. The request is a reasonable deviation from those provisions regulating the shape, size or area of a lot or parcel of land or the size, height, area, bulk or location of a building or structure.

Section 4-508 is very specific in requiring a building to be configured with an entirely commercial first floor and residential units above for it to be exempt from the residential bulk, area and density requirements. The applicant's proposed configuration would have residential units on all floors of the building. Given that the applicant's requested deviations would not be required if the proposed configuration followed section 4-508, staff finds them to be unreasonable. Further analysis follows.

Lot size and residential density

The applicant proposes four dwelling units, doubling what would be permitted considering the residential density maximum of 35 dwelling units per acre. Further, the proposal would provide just over half of the required lot size for four dwelling units on the subject property. The requested deviation is 2,378 square feet below the 4,980 square feet required. The Zoning Ordinance would require the subject property to be nearly twice as large to provide a complying lot size given the applicant's proposal.

Frontage

The subject property provides 20.35 feet of frontage and the CD zone requires 50.00 feet. The CD zone would require the subject property to be more than twice as wide to provide a complying lot size for the proposed multifamily residential use.

Side and rear yards

The existing buildings provide no side or rear yards. As proposed, the minimum required yards would be 25 feet each. Again, the CD zone would require the subject property to be significantly wider for the proposed multifamily use to comply with the side yard requirements. If the property were configured pursuant to section 4-508 no side or rear yards would be required. Further, if the property were to be developed with fewer dwelling units, the side yard requirement would be less than 25 feet.

- b. Strict application of the zoning ordinance would unreasonably restrict the utilization

of the property.

Strict application would prohibit the applicant's proposed multifamily use. However, strict application would allow for the subject property to continue as a noncomplying mixed-use building with two dwelling units. Strict application would also allow for the subject property to be configured with commercial uses and four dwelling units pursuant to section 4-508. In this scenario, if the applicant were to reconfigure the property pursuant to 4-508, leaving the first floor entirely commercial with four dwelling units above, he could nearly double the size of the existing building with a 1,961 square-foot addition. Because there are no area or bulk requirements for properties configured pursuant to 4-508, he could also remove all open space in the rear of the subject property. Thus, strict application would not unreasonably restrict the utilization of the property.

- c. The need for a variance is not shared generally by other properties.

The need for a variance is generally shared by other similarly sized properties throughout the CD zone. However, the subject property is somewhat unique in that the existing building is sufficiently small and lot size sufficiently large to both comply with floor area regulations and provide complying open space for the four dwelling units proposed.

- d. The variance is not contrary to the purpose of the ordinance.

The multifamily use of the subject property is permitted by the CD zone; however, as previously mentioned, to exempt the subject property from the residential area and bulk requirements, it must be configured with an entirely commercial first floor with the residential units located on the second or third floors. The CD zone only exempts properties with this configuration from the residential area and bulk requirements. Therefore, its intent is for buildings to provide first floor commercial space. The variance would be contrary to this intent.

- e. The variance does not include a change in use, which change shall be accomplished by a rezoning.

The applicant proposes to change the use of the subject property to multifamily. The CD zone permits multifamily dwellings, and a rezoning would not eliminate the need for the requested variances. There are no other zones in the City that would allow for the proposed number of dwelling units per acre.

IX. Analysis of Variance Standards

Per zoning ordinance section 11-1103, the Board of Zoning Appeals shall not grant a variance unless it finds that the request meets the variance standards as follows:

- a. The strict application of the terms of the ordinance would unreasonably restrict the

utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance.

Strict application of the Zoning Ordinance would restrict the utilization of the property as a multifamily dwelling, a use that is permitted by the CD zone. Strict application would prohibit all exclusively residential uses of the subject property. Strict application would, however, allow for the existing, noncomplying mixed-use configuration to remain or the development of accessory apartments pursuant to section 4-508. The side yard and frontage variances, if approved, would alleviate a hardship created by the subject property's narrowness. The hardship created by the location of the existing historic structure within the required side yards would also be alleviated by the granting of the variances.

- b. The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicants for the variance.

The applicant acquired the subject property interest in good faith and was unaware at the time of purchase that the Zoning Ordinance would restrict their ability to convert the building to a multifamily dwelling. The applicant did not create the lot or construct the existing building so he did not create the hardship imposed by the narrowness of the lot or location of the existing building.

- c. The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area.

Granting the variances would not impact adjacent or nearby properties because no changes or expansions to the existing building are proposed. Further, granting the variances would result in a residential use that would be arguably less impactful to surrounding properties than the existing or potential expansion of by-right commercial uses. Granting the variances would also require the applicant to maintain desirable open space.

- d. The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.

Staff finds the condition or situation to be recurring in nature. While the subject property is somewhat unique because it provides complying open space requirements for the multifamily dwelling use, all CD zoned properties of a similar size and with a similar configuration would require similar variance relief. Because this situation is reoccurring throughout the CD zone and other commercial zones and because the requests generally do not meet the definition or standards for variance approval staff is exploring amendments to the zoning ordinance that would create paths forward for conversions of buildings to small scale multifamily buildings without the need for a variance.

- e. The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property.

The variance request does not result in a prohibited use. Multifamily dwellings are permitted in the CD zone. While not technically a rezoning, an increase in density can be achieved through a rezoning.

- f. The relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance or the process for modification of a zoning ordinance at the time of the filing of the variance application.

The request is not eligible for special exception process. If the applicant is unable to obtain the required off street parking spaces, a parking reduction special use permit (SUP) will be needed. Through this process, the side and rear yards could be modified but the need for the other variances would remain. Alternative relief or remedy is not available for the applicant's request.

X. Staff Conclusion

As outlined above, staff **recommends denial** of the request because it does not meet all the variance standards.

If the Board grants the requested variances, staff recommends the following condition:

The variance will be effective once the applicant has either: A) provided parking agreements for the two-required off-street parking spaces pursuant to section 8-200(C)(2), or B) received City Council approval for a parking reduction special use permit prior to P&Z approval of building permits or certificates of occupancy.

Staff

Sam Shelby, Urban Planner, sam.shelby@alexandriava.gov

Mary Christesen, Zoning Manager, mary.christesen@alexandriava.gov

Tony LaColla, AICP, Land Use Division Chief, Anthony.lacolla@alexandriava.gov

DEPARTMENTAL COMMENTS

Legend: C - code requirement R - recommendation S - suggestion F - finding

*The applicant is advised that if the variance is approved the following additional comments apply.

Historic Preservation:

- F-1 The subject property is located within the locally regulated Old and Historic Alexandria District (OHAD). Any demolition/capsulation, addition or exterior alterations to the subject property requires a Permit to Demolish/Capsulate or Certificate of Appropriateness from the Board of Architectural Review.
- F-2 According to page 160 of Ethelyn Cox's Historic Alexandria Virginia Street by Street, 113 South Saint Asaph was built circa 1785. "Tax records for 1787 show that the owner, Richard Ratcliffe, had tenants in both 115 and 113. In 1808 Ratcliffe sold 113 to Edmund Jennings Lee, uncle of Robert E. Lee. Abraham Faw purchased it in 1811."

Transportation and Environmental Services:

- R-1 The building permit must be approved and issued prior to the issuance of any permit for demolition, if a separate demolition permit is required. (T&ES)
- R-2 Applicant shall be responsible for repairs to the adjacent city right-of-way if damaged during construction activity. (T&ES)
- R-3 No permanent structure may be constructed over any existing private and/or public utility easements. It is the responsibility of the applicant to identify any and all existing easements on the plan. (T&ES)
- F-1 After review of the information provided, an approved grading plan is not required at this time. Please note that if any changes are made to the plan it is suggested that T&ES be included in the review. (T&ES)
- F-2 If the alley located at the rear of the parcel is to be used at any point of the construction process the following will be required:
For a Public Alley - The applicant shall contact T&ES, Construction Permitting & Inspections at (703) 746-4035 to discuss any permits and accommodation requirements that will be required.
For a Private Alley - The applicant must provide proof, in the form of an affidavit at a minimum, from owner of the alley granting permission of use. (T&ES)
- C-1 The applicant shall comply with the City of Alexandria's Solid Waste Control, Title 5, Chapter 1, which sets forth the requirements for the recycling of materials (Sec. 5-1-99). (T&ES)
- C-2 The applicant shall comply with the City of Alexandria's Noise Control Code, Title 11, Chapter 5, which sets the maximum permissible noise level as measured at the property line. (T&ES)

- C-3 Roof, surface and sub-surface drains be connected to the public storm sewer system, if available, by continuous underground pipe. Where storm sewer is not available applicant must provide a design to mitigate impact of stormwater drainage onto adjacent properties and to the satisfaction of the Director of Transportation & Environmental Services. (Sec.5-6-224) (T&ES)
- C-4 All secondary utilities serving this site shall be placed underground. (Sec. 5-3-3) (T&ES)
- C-5 Any work within the right-of-way requires a separate permit from T&ES. (Sec. 5-2) (T&ES)
- C-6 All improvements to the city right-of-way such as curbing, sidewalk, driveway aprons, etc. must be city standard design. (Sec. 5-2-1) (T&ES)

Code Administration:

- C-1 No comments received.

Recreation (City Arborist):

- C-1 No comments.

Historic Alexandria (Archaeology):

- F-1 There is low potential for significant archaeological resources to be disturbed by this project. No archaeological action is required.

Other requirements brought the applicant's attention if the Board approves the requested variance:

- C-1 The applicant shall either: A) provide parking agreements for the two-required off-street parking spaces pursuant to section 8-200(C)(2), or B) receive City Council approval for a parking reduction special use permit prior to P&Z approval of building permits or certificates of occupancy.
- C-2 The variance must be recorded with the property's deed in the City's Land Records Office prior to the release of the building permit.



**APPLICATION
BOARD OF ZONING APPEALS**

VARIANCE

Section of zoning ordinance from which request for variance is made:

Section 4-505 (B) (1) and (2) (a)

Section 4-506 (A) (2) (a) and (2) (b) (2) and (2) (c) (2)

PART A

1. Applicant: ☒ Owner ☐ Contract Purchaser ☐ Agent

Name Zachary Burson Cotter

Address 911 Prince Street, APT 2

Alexandria, VA 22314

Daytime Phone 404-281-2412

Email Address zachcotter@ gmail.com

2. Property Location 113 S Saint Asaph St, Alexandria VA 22314

3. Assessment Map # 074.02 Block 09 Lot 14 Zone CD

4. Legal Property Owner Name Zachary Burson Cotter

Address 911 Prince Street, APT 2 Alexadria, VA 22314

OWNERSHIP AND DISCLOSURE STATEMENT

Use additional sheets if necessary

1. Applicant. State the name, address and percent of ownership of any person or entity owning an interest in the applicant, unless the entity is a corporation or partnership, in which case identify each owner of more than three percent. The term ownership interest shall include any legal or equitable interest held at the time of the application in the real property which is the subject of the application.

Name	Address	Percent of Ownership
1. Zachary Burson Cotter	911 Prince Street APT 2 Alexandria, VA 223143	100
2.		
3.		

2. Property. State the name, address and percent of ownership of any person or entity owning an interest in the property located at 113 S Saint Asaph St, Alexandria VA 22314 (address), unless the entity is a corporation or partnership, in which case identify each owner of more than three percent. The term ownership interest shall include any legal or equitable interest held at the time of the application in the real property which is the subject of the application.

Name	Address	Percent of Ownership
1. Zachary Burson Cotter	911 Prince Street APT 2 Alexandria, VA 223143	100
2.		
3.		

3. Business or Financial Relationships. Each person or entity listed above (1 and 2), with an ownership interest in the applicant or in the subject property is required to disclose **any** business or financial relationship, as defined by Section 11-350 of the Zoning Ordinance, existing at the time of this application, or within the 12-month period prior to the submission of this application with any member of the Alexandria City Council, Planning Commission, Board of Zoning Appeals or either Boards of Architectural Review (OHAD and Parker-Gray). **All fields must be filled out completely. Do not leave blank. (If there are no relationships please indicate each person or entity below and "NONE" in the corresponding fields.)**

Name of person or entity	Relationship as defined by Section 11-350 of the Zoning Ordinance	Member of the Approving Body (i.e. City Council, Planning Commission, etc.)
1. Zachary Burson Cotter	None	None
2.		
3.		

NOTE: Business or financial relationships of the type described in Sec. 11-350 that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings.

5. Describe request briefly:

Inherent limitations exist due to the historical nature and construction as follows:
Minimum Frontage requirement is 50 ft, only 20 ft is provided; 2 residential units exist
- 2 additional residential units are proposed in lieu of 2 existing commercial units; unit
size shall be 800 sq ft minimum-the proposed units are less than 800 sq ft; no side
yards provided; parking falls short - only a 1 car garage is available on the property.

6. If property owner or applicant is being represented by an authorized agent,

such as an attorney, realtor or other person for which there is a form of
compensation, does this agent or the business in which they are employed have a
business license to operate in the City of Alexandria, Virginia?

☐ Yes — Provide proof of current City business license.

☒ No — Said agent shall be required to obtain a business prior to
filing application.

THE UNDERSIGNED HEREBY ATTESTS that all of the information herein provided including
the site plan, building elevations, prospective drawings of the projects, etc., are true, correct
and accurate. The undersigned further understands that, should such information be found
incorrect, any action taken by the Board based on such information may be invalidated. The
undersigned also hereby grants the City of Alexandria permission to post placard notice as
required by Article XI, Division A, Section 11-301(B) of the 1992 Alexandria City Zoning
Ordinance, on the property which is the subject of this application. The applicant, if other than
the property owner, also attests that he/she has obtained permission from the property owner
to make this application.

APPLICANT OR AUTHORIZED AGENT:

☒ I, as the applicant or authorized agent, note that there is a fee associated with the
submittal of this application. Planning & Zoning Department staff will be in contact with
the applicant regarding payment methods. Please recognize that applications will not be
processed until all fees are paid.

☒ Yes ☐ No I affirm that I, the applicant or authorized agent, am responsible for the
processing of this application and agree to adhere to all the requirements
and information herein.

Printed Name: Zachary Burson Cotter

Date: 29 Oct 2020

Signature:

Zach Cotter

Digitally signed by Zach Cotter
Date: 2020.10.29 17:04:10
+04'00'

Pursuant to Section 13-3-2 of the City Code, the use of a document containing false
information may constitute a Class 1 misdemeanor and may result in a punishment of a
year in jail or \$2,500 or both. It may also constitute grounds to revoke the permit applied
for with such information.

PART B

APPLICANT MUST EXPLAIN THE FOLLOWING:

(Please **attach** additional pages where necessary.)

1. Please answer A or B:

A. Explain how enforcement of the zoning ordinance would prevent reasonable use of the property.

Enforcement of Zoning Ordinance would prevent the use of the property as residential apartments due to constraints that cannot be met (feasibly) within the historic property's construction.

B. Explain how the variance, if granted, would alleviate a hardship, as defined above.

It would allow the use to be 100% residential as originally intended in 1786 and as it was used through the mid 20th Century.

2. Is this unreasonable restriction or hardship unique to the property?

A. Explain if the restriction or hardship is shared by other properties in the neighborhood.

None of the adjacent properties have side yard setbacks of frontage that meets the current zoning requirements.

B. Does this situation or condition of the property (on which this application is based) generally apply to other properties in the same zone?

Yes

3. Was the unreasonable restriction or hardship caused by the applicant?

A. Did the condition exist when the property was purchased?

Yes

B. Did the applicant purchase the property without knowing of this restriction or hardship?

No

C. How and when did the condition, which created the unreasonable restriction or hardship, first occur?

1786

D. Did the applicant create the unreasonable restriction or hardship and, if so, how was it created?

No

4. Will the variance, if granted, be harmful to others?

A. Explain if the proposed variance will be detrimental to the adjacent properties or the neighborhood in general.

No.

- B. Has the applicant shown the proposed plans to the most affected property owners? Have these property owners written statements of support or opposition of the proposed variance? If so, please attach the statements or submit at the time of the hearing.**

Not at the time of this application.

- 5. Is there any other administrative or procedural remedy to relieve the hardship or unreasonable restriction?**

No.

PART C

- 1. Have alternative plans or solutions been considered so that a variance would not be needed? Please explain each alternative and why it is unsatisfactory.**

No. There are two existing residential units which will not be modified in any way. There are two commercial spaces that are approximately 500-600 square feet each. These will be converted to residential units with the addition of a kitchenette in each, closets for the sleeping areas and minor modification to the existing bathrooms in each. Given the existing footprint, the limited area and maintaining the structural/historic integrity, it is not feasible to increase the existing square footage to meet the 800 square foot minimum. It may also involve filling the existing courtyard at considerable expense and alter the existing historic character of the building. This may require an additional open space variance.

2. Please provide any other information you believe demonstrates that the requested variance meets the required standards.

By allowing four residential units, this would be consistent with the character of the neighborhood. Even though the first floor area street side was a commercial space, it required ascending a flight of steps to a stoop which precluded access by handicap individuals (public use). Residential units do not need to meet this requirement.

*****ATTENTION APPLICANTS*****

At the time of application for a Special Use Permit, Rezoning, Vacation, Encroachment, Variance, Special Exception or Subdivision, you must provide a draft of the description of your request you intend to use in the property owner's notice. You must be thorough in your description. Staff will review the draft wording to confirm its completeness.

The example illustrates a detailed description:

"Variance to construct a two-story addition in the required side yards on 109 S St. Asaph St. Street."

If you fail to submit draft language at the time of the application filing deadline, the application will be determined to be incomplete and may be deferred by staff.



Department of Planning and Zoning Floor Area Ratio and Open Space Calculations

B

A. Property Information

A1. 113 S Saint Asaph St, Alexandria, VA 22314
Street Address

R-20
Zone

A2. 2,602.00 x 1.25 = 3,252.50
Total Lot Area Floor Area Ratio Allowed by Zone Maximum Allowable Floor Area

B. Existing Gross Floor Area

Existing Gross Area

Basement 260.00
First Floor 1,024.00
Second Floor 1,024.00
Third Floor
Attic 606.00
Porches
Balcony/Deck
Lavatory***
Other** 211.00

Allowable Exclusions**

Basement** 260.00
Stairways**
Mechanical**
Attic less than 7'**
Porches**
Balcony/Deck**
Lavatory***
Other**
Other**

B1. 2,914.00 Sq. Ft.
Existing Gross Floor Area*

B2. 260.00 Sq. Ft.
Allowable Floor Exclusions**

B3. 2,654.00 Sq. Ft.
Existing Floor Area Minus Exclusions
(subtract B2 from B1)

Comments for Existing Gross Floor Area

Exclude basement: Ceiling 6'-0" high

B1. Total Gross

2,914.00

B2. Total Exclusions

260.00

C. Proposed Gross Floor Area

Proposed Gross Area

Basement
First Floor
Second Floor
Third Floor
Attic
Porches
Balcony/Deck
Lavatory***
Other

Allowable Exclusions**

Basement**
Stairways**
Mechanical**
Attic less than 7'**
Porches**
Balcony/Deck**
Lavatory***
Other**
Other**

C1. 0.00 Sq. Ft.
Proposed Gross Floor Area*

C2. 0.00 Sq. Ft.
Allowable Floor Exclusions**

C3. 0.00 Sq. Ft.
Proposed Floor Area Minus Exclusions
(subtract C2 from C1)

C1. Total Gross

0.00

C2. Total Exclusions

0.00

D. Total Floor Area

D1. 2,654.00 Sq. Ft.
Total Floor Area (add B3 and C3)

D2. 3,252.50 Sq. Ft.
Total Floor Area Allowed
by Zone (A2)

E. Open Space (RA & RB Zones)

E1. Sq. Ft.
Existing Open Space

E2. Sq. Ft.
Required Open Space

E3. Sq. Ft.
Proposed Open Space

Notes

*Gross floor area is the sum of all areas under roof of a lot, measured from the face of exterior walls, including basements, garages, sheds, gazebos, guest buildings and other accessory buildings.

** Refer to the Zoning Ordinance (Section 2-145(B)) and consult with Zoning Staff for information regarding allowable exclusions. Sections may also be required for some exclusions.

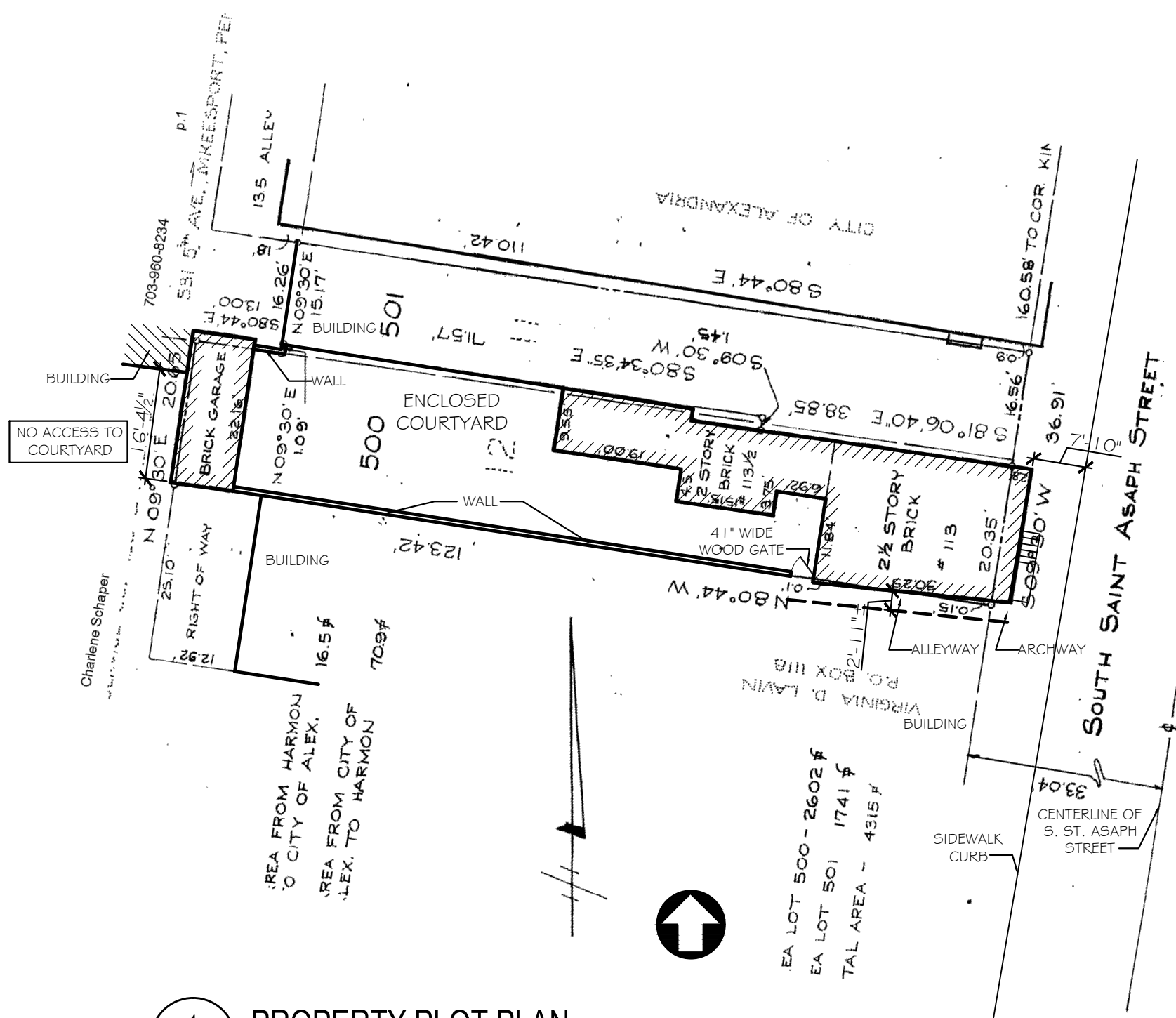
***Lavatories may be excluded up to a maximum of 50 square feet, per lavatory. The maximum total of excludable area for lavatories shall be no greater than 10% of gross floor area.

The undersigned hereby certifies and attests that, to the best of his/her knowledge, the above computations are true and correct.

Signature: Zach Cotter

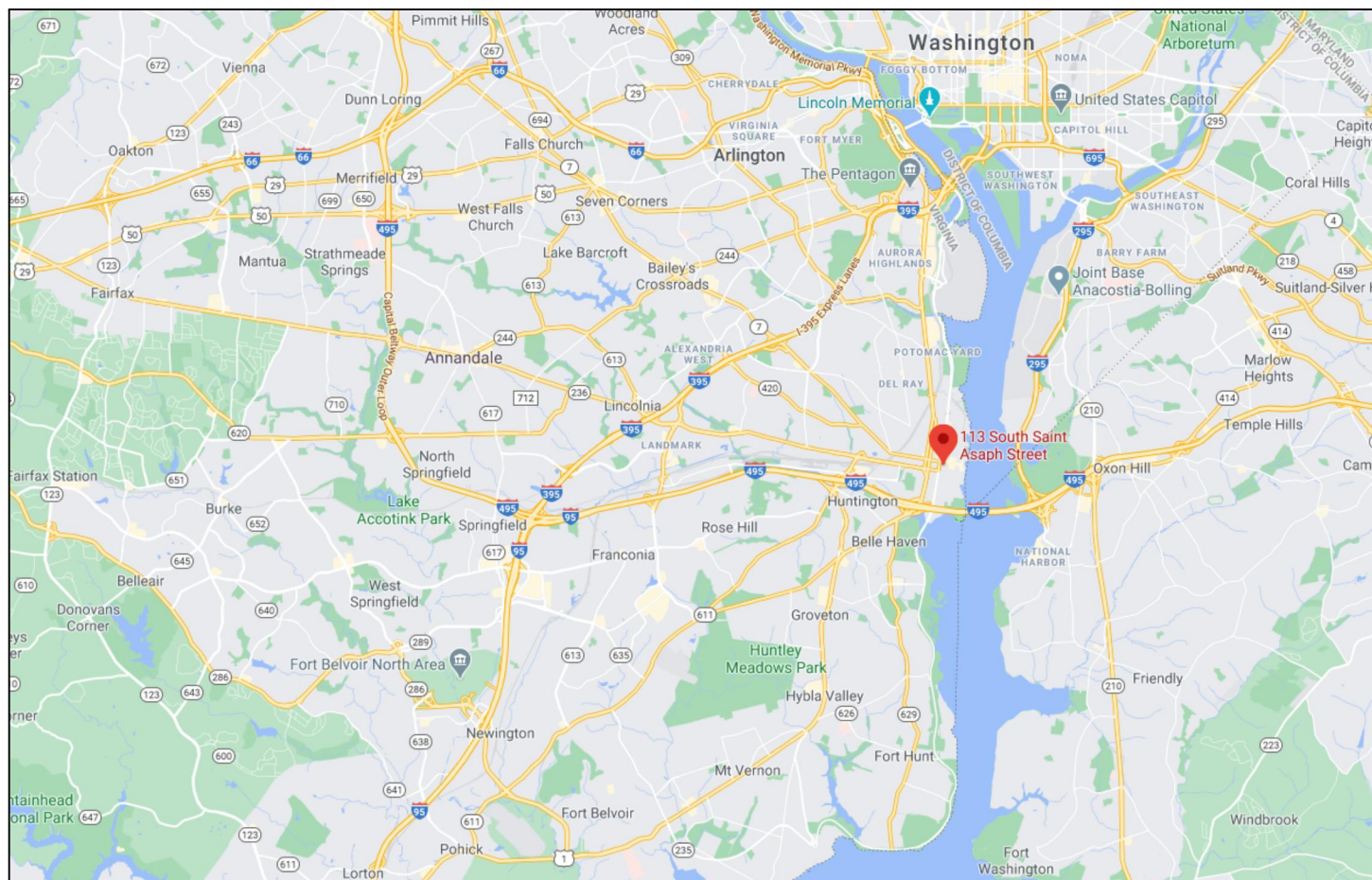
Digitally signed by Zach Cotter
Date: 2020.10.29 17:17:53 -04'00'

Date: 29/OCT/2020



1
A-1

PROPERTY PLOT PLAN
SCALE: 1"=20'



2
G-100

VICINITY MAP
SCALE: NOT TO SCALE

CERTIFY THAT THESE
DOCUMENTS WERE PREPARED
OR APPROVED BY ME, AND I AM
A DULY LICENSED ARCHITECT
UNDER THE LAWS OF THE
COMMONWEALTH OF VIRGINIA,
LICENSE NUMBER
0407005166, EXPIRATION
DATE 12/31/21

**RESIDENCE
RENOVATION**
113 SOUTH ST. ASAPH STREET
ALEXANDRIA, VA 22314

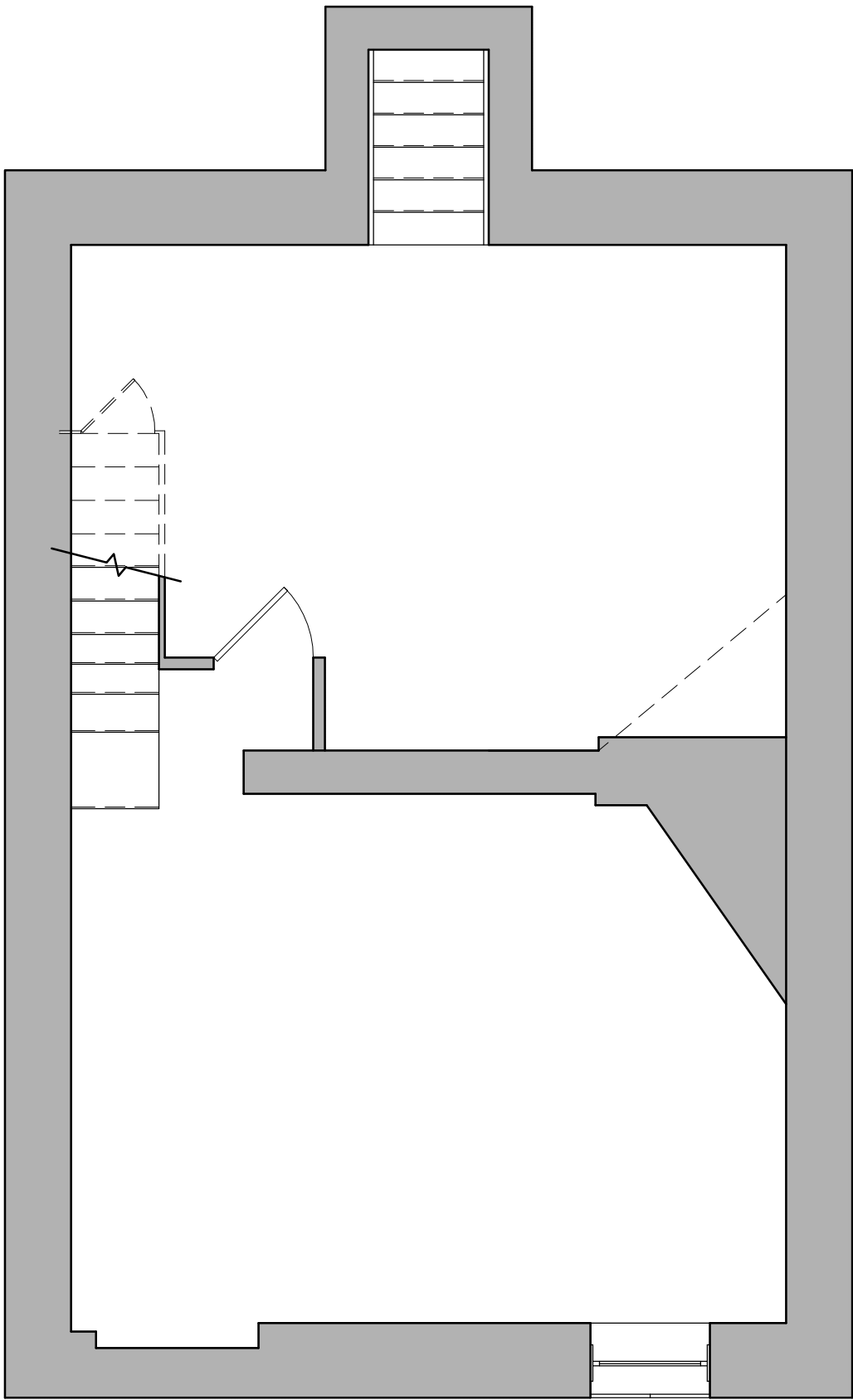
COVER
SHEET

DEL  STUDIO
ARCHITECTS

750 MARYLAND ROUTE 3 SOUTH, SUITE 7
GAMBRILLS MD 21054
TEL: 410-923-0922 FAX: 410-923-0828

REV	DATE	DESCRIPTION
DRAWN: NJ		CHKD: DEL
DATE: 10-27-20		DATE: 10-27-20
CAD REF: 2020.08		

A-1



1
A-2

EXISTING BASEMENT FLOOR PLAN

SCALE: 1/4"=1'-0"

CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME, AND I AM A DULY LICENSED ARCHITECT UNDER THE LAWS OF THE COMMONWEALTH OF VIRGINIA, LICENSE NUMBER 0407005166, EXPIRATION DATE 12/31/21

RESIDENCE RENOVATION
113 SOUTH ST. ASAPH STREET
ALEXANDRIA, VA 22314

EXISTING BASEMENT

DEL STUDIO ARCHITECTS
750 MARYLAND ROUTE 3 SOUTH, SUITE 7
GAMBRILLS MD 21054
TEL: 410-923-0922 FAX: 410-923-0828

REV	DATE	DESCRIPTION

A-2



SCALE: 3/16"=1'-0"

This floor plan illustrates the second floor of a building. The central area is labeled DINING/KITCHEN. To the right of this area is a BATH room containing a bathtub, toilet, and sink. Below the Dining/Kitchen area is a BEDROOM. On the left side, there is a staircase with a curved wall. The plan also shows various closets, including a large one in the top right and several smaller ones throughout. The bottom of the plan is labeled ROOF BELOW.

1
A-3A

EXISTING THIRD FLOOR PLAN
SCALE: 1/4"=1'-0"

25



1
A-6

EXISTING STREET ELEVATION (NO RENOVATION)
SCALE: 1/4"=1'-0"

CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME, AND I AM A DULY LICENSED ARCHITECT UNDER THE LAWS OF THE COMMONWEALTH OF VIRGINIA, LICENSE NUMBER 0407005166, EXPIRATION DATE 12/31/21

RESIDENCE RENOVATION
113 SOUTH ST. ASAPH STREET
ALEXANDRIA, VA 22314

STREET ELEVATION

DEL STUDIO ARCHITECTS
750 MARYLAND ROUTE 3 SOUTH, SUITE 7
GAMBRILLS MD 21054
TEL: 410-923-0922 FAX: 410-923-0828

REV	DATE	DESCRIPTION
DRAWN: NJ	CHKD: DEL	
DATE: 10-27-20	DATE: 10-27-20	
CAD REF: 2020.08		

A-6



1
A-6

EXISTING REAR ELEVATION (NO RENOVATION)
SCALE: 1/4"=1'-0"

CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME, AND I AM A DULY LICENSED ARCHITECT UNDER THE LAWS OF THE COMMONWEALTH OF VIRGINIA, LICENSE NUMBER 0407005166, EXPIRATION DATE 12/31/21

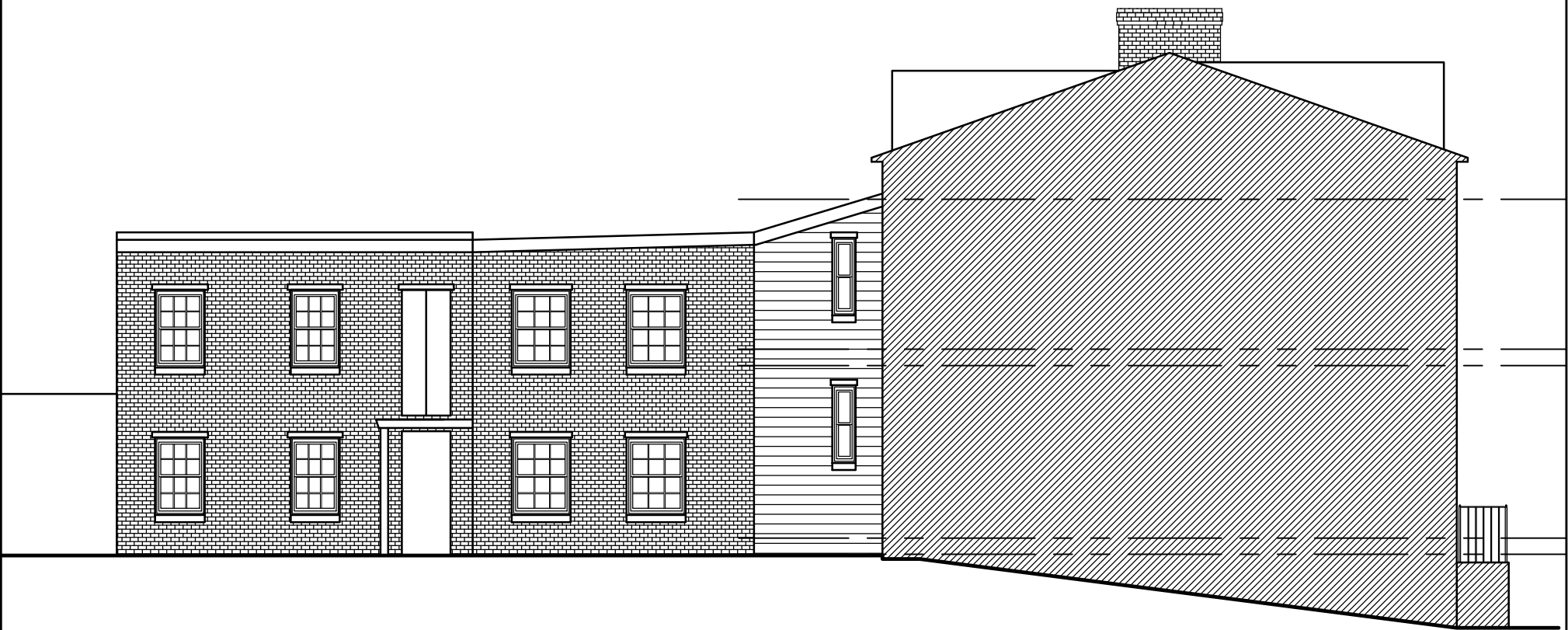
RESIDENCE
RENOVATION
113 SOUTH ST. ASAPH STREET
ALEXANDRIA, VA 22314

REAR
ELEVATION

DEL STUDIO
ARCHITECTS
750 MARYLAND ROUTE 3 SOUTH, SUITE 7
GAMBRILLS MD 21054
TEL: 410-923-0922 FAX: 410-923-0828

REV	DATE	DESCRIPTION
DRAWN: NJ	CHKD: DEL	
DATE: 10-27-20	DATE: 10-27-20	
CAD REF: 2020.08		

A-7



1
A-6

EXISTING LEFT ELEVATION--COURTYARD (NO RENOVATION)
SCALE: 1/8"=1'-0"

CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME, AND I AM A DULY LICENSED ARCHITECT UNDER THE LAWS OF THE COMMONWEALTH OF VIRGINIA, LICENSE NUMBER 0407005166, EXPIRATION DATE 12/31/21

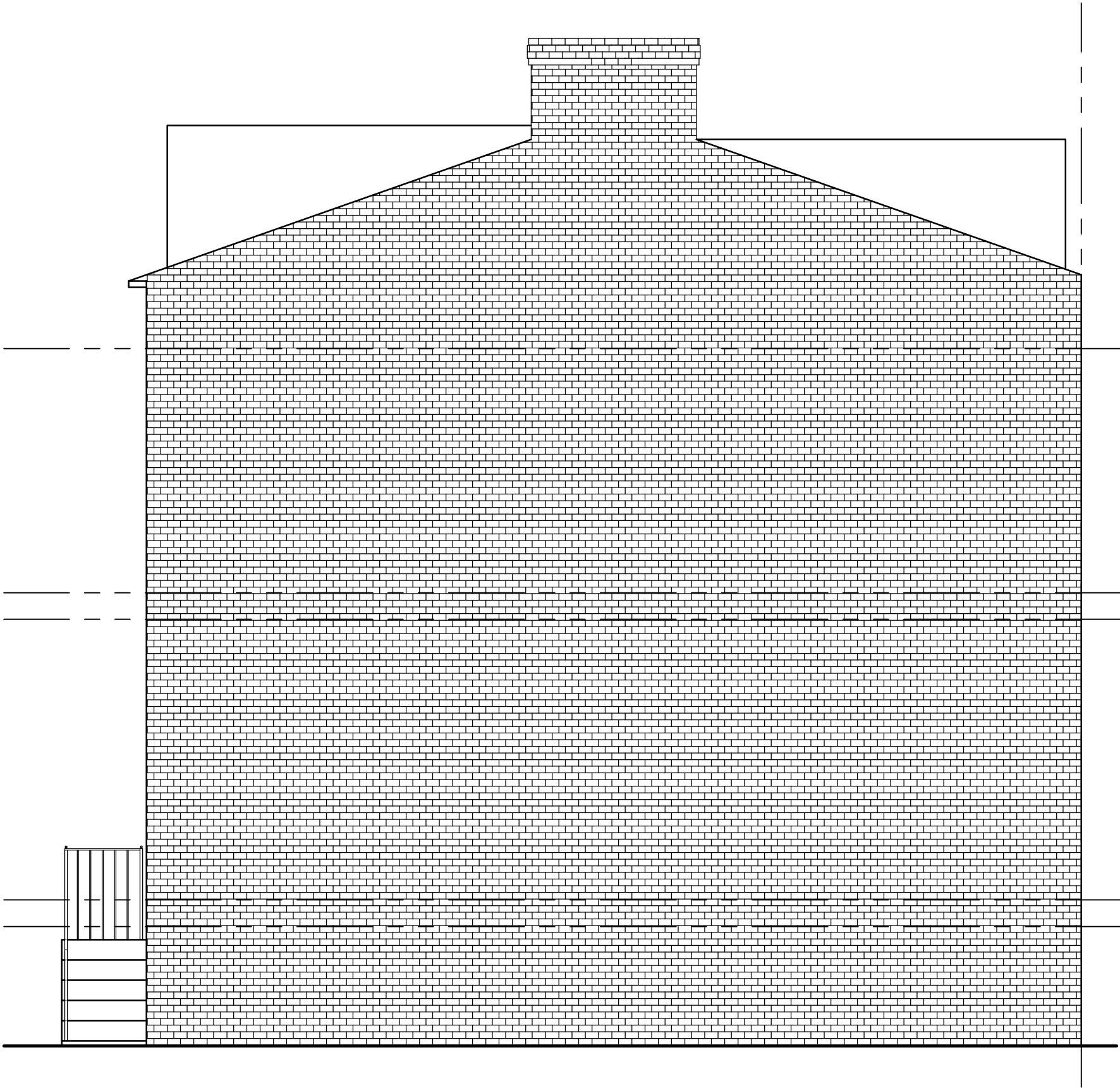
RESIDENCE
RENOVATION
113 SOUTH ST. ASAPH STREET
ALEXANDRIA, VA 22314

LEFT
ELEVATION

DEL STUDIO
ARCHITECTS
750 MARYLAND ROUTE 3 SOUTH, SUITE 7
GAMBRILLS MD 21054
TEL: 410-923-0922 FAX: 410-923-0828

REV	DATE	DESCRIPTION

A-8
30



1
A-6

EXISTING RIGHT ELEVATION (NO RENOVATION)
SCALE: 1/4"=1'-0"

CERTIFY THAT THESE
DOCUMENTS WERE PREPARED
OR APPROVED BY ME, AND I AM
A DULY LICENSED ARCHITECT
UNDER THE LAWS OF THE
COMMONWEALTH OF VIRGINIA,
LICENSE NUMBER
0407005166, EXPIRATION
DATE 12/31/21

**RESIDENCE
RENOVATION**
113 SOUTH ST. ASAPH STREET
ALEXANDRIA, VA 22314

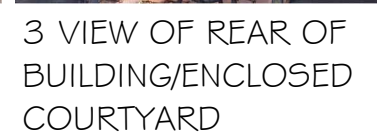
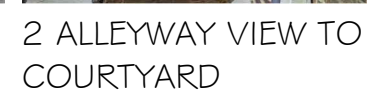
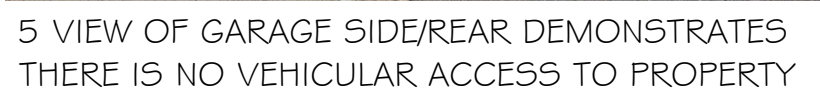
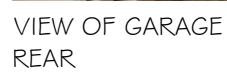
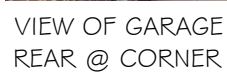
**RIGHT
ELEVATION**

DEL STUDIO
ARCHITECTS
750 MARYLAND ROUTE 3 SOUTH, SUITE 7
GAMBRILLS MD 21054
TEL: 410-923-0922 FAX: 410-923-0828

REV	DATE	DESCRIPTION
DRAWN: NJ	CHKD: DEL	
DATE: 10-27-20	DATE: 10-27-20	
CAD REF: 2020.08		

A-9

- THE COURTYARD IS ENCLOSED
- NO VEHICULAR ACCESS TO PROPERTY
- THE EXTERIOR OF PROPERTY WILL NOT BE RENOVATED OR ALTERED



32

Kaliah L Lewis

From: John Thorpe Richards <jtr@bogoradrichards.com>
Sent: Monday, December 14, 2020 9:45 AM
To: Kaliah L Lewis
Cc: Sam Shelby; Mary Christesen; Tony LaColla; zachcotter@gmail.com; Rothrock, Gail
Subject: [EXTERNAL]BZA #2020-00023 113 South St. Asaph Street (Request for Variance)
Attachments: 2020_12_14_HAF_BZA #2020-00023.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Ms. Lewis,

Attached please find a copy of the Comments of Historic Alexandria Foundation on the referenced case which is on the docket for hearing this evening. Please distribute our letter to the members of the Board. Thank you.

JOHN THORPE RICHARDS, JR.

MEMBER OF THE BOARD
HISTORIC ALEXANDRIA FOUNDATION
(703) 457-7823 (DIRECT)

[JTR@BOGORADRICARDS.COM](mailto:jtr@bogoradrichards.com)

The preceding e-mail message (including any attachments) contains information that may be confidential, be protected by the attorney-client or other applicable privileges, or constitute non-public information. It is intended to be conveyed only to the designated recipient(s). If you are not an intended recipient of this message, please notify the sender by replying to this message and then delete it from your system. Use, dissemination, distribution, or reproduction of this message by unintended recipients is not authorized and may be unlawful.

**DISCLAIMER: This message was sent from outside the City of Alexandria email system.
DO NOT CLICK any links or download attachments unless the contents are from a trusted source.**

218 North Lee Street, Suite 310
Alexandria, Virginia 22314
(703) 549-5811
www.HistoricAlexandriaFoundation.org
HistoricAlexandriaFoundation@gmail.com

December 14, 2020

Board of Zoning Appeals
City of Alexandria
301 King St., Room 2400
Alexandria, VA 22314

By email
c/o Kaliah Lewis
kaliah.lewis@alexandriava.gov

Re: BZA #2020-00023
113 South St. Asaph Street (Request for Variance)

Dear Chair Altenburg and Members of the Board:

As you know, HAF was formed “to preserve, protect and restore structures and sites of historic or architectural interest in and associated with the City of Alexandria, Virginia, to preserve antiquities, and generally to foster and promote interest in Alexandria’s historic heritage.” In furtherance of this mission, we are vitally concerned with the proper administration of the Zoning Ordinance in the Old and Historic District, and the preservation of the historic fabric of our unique and historic City.

HAF takes particular interest in the property at 113 S. St. Asaph Street because in 1966 we awarded the house plaque number 107-E-113 as part of our Early Building Survey Program. This was one of the earliest plaques awarded; the program began in 1965 to identify important early historic resources during the era of urban renewal. The plaque program is one of HAF’s major programs for promoting historic preservation as it carries out its charitable mission.

In order to fully protect the Historic District and uphold the stated goals of both the Historic District Ordinance and the CD zone, we believe it is important for the Board to adhere to the high standards that are required before an applicant is relieved of the

minimal limitations contained in the generous allotments of the CD/Commercial Downtown zone. Simply put, the limitations on the use of 113 S. St. Asaph do not pose the type of hardship that justify a variance.

In submitting our comments, HAF is fully conscious that the Zoning Ordinance was amended by the City Council on May 13, 2017 to conform with the 2015 amendments to Va. Code § 15.2-2201 (2017) and Va. Code § 15.2-2309 (2017). But while these amendments were designed, in part, to somewhat reduce the showing necessary to obtain a variance, an applicant still faces a very high burden to justify a variance. This was confirmed by the testimony of the City's Zoning Staff and Legal Counsel during the public hearing on May 13, 2017. Statement of Alex Dambach, Division Chief: ("[I]t's not substantially easier, it's just a moderate adjustment in the way the language is written."); Statement of Joanna Anderson: ("***But Alex is right that it is further loosening it but it is still a very high standard to get a variance as it should be.***")(emphasis added).

Under the new ordinance, the applicant must still show (1) that "the strict application of the ordinance would unreasonably restrict the utilization of the property," (2) that the "need for a variance would not be shared generally by other properties," and (3) that the "variance is not contrary to the purpose of the ordinance." Zoning Ordinance § 2-201.1. We suggest that the application fails to make a showing under any of these three requirements.

In addition, Section 11-1103 of the revised ordinance requires, among other things, that the applicant prove that:

(B) The strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance;

(C) The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;

* * *

(E) The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;...

We agree with the recommendation of your Staff that the application in this case cannot make the required showing under Sections 11-1103(B) & (E) of the Ordinance. There is no “hardship” being experienced by the owners of this property. The owner has the full enjoyment of the property he bought subject to the restrictions of the Zoning Ordinance. While all zoning restrictions place limitations on the use and development of real estate, complying with those restrictions that have been put in place for the common good is not the type of “hardship” contemplated by either the Virginia Code or the City Ordinance. Being subject to these restrictions “is a condition shared by every other property holder in the same zone.” *Martin v. City of Alexandria*, 286 Va. 61, 74, 743 S.E.2d 139, 146 (2013).

Although not essential for your determination that a variance is unwarranted in this case, we do not believe that the record before you supports a finding that the applicant satisfies Section 11-1103(C). While the Staff report analyzes the requirements of Section 11-1103(C) as follows:

The applicant acquired the subject property interest in good faith and was unaware at the time of purchase that the Zoning Ordinance would restrict their ability to convert the building to a multifamily dwelling. The applicant did not create the lot or construct the existing building so he did not create the hardship imposed by the narrowness of the lot or location of the existing building.

Staff Report at 8, the application provides the following answers to the basic questions raised by the provision of the Ordinance:

A. Did the condition exist when the property was purchased?

Yes

B. Did the applicant purchase the property without knowing of this restriction or hardship?

No.

Moreover, properly construed, the ordinance does not provide for a variance because a new owner did not create the condition — it provides for a variance only if none of the prior owners created the condition. As the successor in title to prior landowners, the Applicant should be charged with responsibility for his predecessors land use decisions

and actions. Otherwise, every sale of property would be grounds for a variance. See 3 Rathkopf's The Law of Zoning and Planning § 58:21 (4th ed.)("If the conditions affecting the property have been caused or created by the property owner *or his predecessor in title*, the essential basis of a variance ... is lacking." "Variances generally will not be granted when courts determine that the hardship was created by an affirmative act by the owner *or his predecessor*.")(emphasis added); see also *Alleghany Enterprises, Inc. v. Bd. of Zoning Appeals of City of Covington*, 217 Va. 64, 69, 225 S.E.2d 383, 386 (1976)("self-inflicted hardship ... whether deliberately or ignorantly incurred, affords no basis for the granting of a variance). While we recognize that purchasing a property knowing that the intended use would require a variance is not itself a bar to the requested relief, see *Spence v. Board of Zoning Appeals for City of Virginia Beach*, 255 Va. 116, 496 S.E.2d 61 (1998), it is far from clear — based on the record before the Board — that the restrictions the owner seeks to avoid are not the result of the voluntary land use decisions and actions of the prior owners of the property.

* * *

For all of these reasons, HAF respectfully supports the Staff recommendation that the application for a variance be denied and opposes the grant of the requested variance.

Thank you for your consideration of our statement.

Sincerely,



John Thorpe Richards, Jr.
Board and Advocacy Committee Member
Historic Alexandria Foundation

cc. Sam Shelby, Urban Planner,
sam.shelby@alexandriava.gov
Mary Christesen, Zoning Manager,
mary.christesen@alexandriava.gov
Tony LaColla, AICP, Land Use Division Chief,
Anthony.lacolla@alexandriava.gov
Zachary Burson Cotter
zachcotter@gmail.com