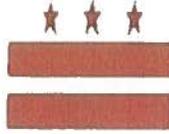


**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OFFICE OF THE ZONING ADMINISTRATOR**



March 26, 2012

Steven E. Sher
Director of Zoning and Land Use Services
Holland & Knight LLP
2099 Pennsylvania Avenue, N.W. - Suite 100
Washington, DC 20006

Re: 391 Rhode Island Avenue, NW

Dear Mr. Sher:

This is to follow-up on our discussion on Tuesday, February 14, 2012, concerning the above-referenced property (Square 3095, Lot 821) located on the north corner of the intersection of 4th Street and Florida and Rhode Island Avenues, N.W. The property contains a land area of 2,748 square feet and is improved with a two story plus basement building that was built c. 1910. The property is zoned C-2-A.

The building has a certificate of occupancy, No. B65673, dated May 31, 1968, authorizing the use of the lower level and the first floor as a funeral parlor. There is no record of a certificate of occupancy for the second floor.

You advised that the owner now proposes to replace the funeral home and convert the entire building into an apartment house containing six dwelling units. An apartment house is a use permitted as a matter-of-right in a C-2-A District.

From a plat which we reviewed, it appears that the building is nonconforming with respect to certain of the area and bulk requirements of the C-2-A District. The building has no rear yard and some of the courts may not meet the width requirements of §776. The building may also exceed the total permitted FAR of 2.5. For all these conditions, the building would be deemed to be a nonconforming structure devoted to a conforming use.

The percentage of lot occupancy requirements under §772.1 apply to a building devoted to residential use. While there is no certificate of occupancy authorizing residential use in the building, you provided historical records from the District going back as far as 1927 indicating that the second floor was used as a residence. You also provided photographs showing the existing of a kitchen and a bathroom with bathtub on the second floor. From this evidence, I conclude that the second floor has been used for residential use. The existing building occupies approximately 85% of the lot, where 60% is the maximum otherwise permitted for a residential building. Accordingly, the building is nonconforming with respect to lot occupancy.

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Since you are proposing no additions or enlargements to the existing building, the provisions of §2001.3 would not apply. Further, §2001.2 provides that "ordinary repairs, alterations, and modernizations to the [nonconforming] structure, including structural alterations, shall be permitted."

The property is located in the LeDroit Park Historic District. Pursuant to §2120.3, no parking is required under §2100.4 for the change of use within an existing historic resource, defined as a building which contributes to the character of the historic district.

Based on the facts and analysis set forth above, I conclude that you may use the entire existing building for 6 apartment units as a matter-of-right without requiring approval from the Board of Zoning Adjustment. Please let me know if I may be of further assistance.

Sincerely, 

Matthew Le Grant
Zoning Administrator