

**BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

**Application of AMGR 2055 L Owner, L.L.C.
2055 L Street, N.W.**

RECEIVED
D.C. OFFICE OF ZONING
2011 AUG -5 PM 1:33

PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

I. Background

The subject property consists of Record Lot 121 in Square 100, and is known as Condominium Lots 2005 through 2010 (the "Site"). Square 100 is bounded by M Street to the north, 21st Street to the west, L Street to the south, and 20th Street to the east. The Site is located in the southwestern corner of the square, at the corner of L and 21st Street. The Site is zoned C-3-C and is located within the New Downtown TDR Receiving Zone.

The Site is currently improved with a 7-story building containing switch gear equipment and related office use for Verizon Washington, DC Inc. ("Verizon"). The existing building was constructed in or around 1964, based on the building permit approved as of November 9, 1964. No Zoning Computation Sheet can be located in the records of the Department of Consumer and Regulatory Affairs for the Site. The original building was constructed to a maximum height of 88 feet, 2 inches and containing 228,340 square feet of gross floor area, or 6.34 FAR. Of this total gross floor area, approximately 175,244 square feet was devoted to office use and approximately 53,096 square feet was devoted to Verizon switch gear equipment at the time it was constructed. Over time, the amount of space devoted to Verizon switch gear equipment increased to approximately 94,193 square feet. The building includes a two level below-grade parking garage and has an existing rear yard having a width of 18.75 feet.

The Applicant intends to renovate the building and to add an 8th floor with the purchase of transferrable development rights ("TDRs") to accommodate new users within portions of the building. The renovation involves cleaning and making repairs to the building façade, opening up portions of the ground floor to provide greater street activation, and enhancing and updating the interior space. Verizon will continue to occupy multiple floors with switch gear equipment and related office space; however, new tenants will occupy space on the first floor and fifth through eighth floors. With the addition of the 8th story, the project will contain a total of approximately 257,639 square feet of gross floor area, or 7.16 FAR. Of this total square footage, approximately 158,283 square feet will be devoted to office use, 5,163 square feet will be devoted to mechanical equipment, and approximately 94,193 square feet will be devoted to Verizon switch gear equipment. The maximum height of the building will be approximately 108 feet, 4 inches.

Because the addition of the 8th floor relies on the existing footprint and structural system of the building, the newly enhanced and expanded building will no longer comply with the required rear yard set back or the parking requirements. Thus, the Applicant seeks special exception relief to waive the rear yard requirement pursuant to Section 774 of the Zoning Regulations and a variance to reduce the number of parking spaces required by Section 2101.1 of the Zoning Regulations.

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 18284
EXHIBIT NO. 5

Board of Zoning Adjustment
District of Columbia
CASE NO. 18284
EXHIBIT NO. 5

Pursuant to Section 3113.8 of the Zoning Regulations, the Applicant will file its Statement of the Applicant with the Board no fewer than fourteen days prior to the public hearing for the present application. In this statement, and at the public hearing, the Applicant will provide testimony to meet its burden of proof to obtain the Board's approval of the requested special exception and variance relief. Following herein, as required by the Board's application process, is a preliminary statement indicating how the Applicant meets the burden of proof.

II. Burden of Proof - Special Exception for Rear Yard Waiver

Section 774.1 of the Zoning Regulations requires all structures located in the C-3-C District to provide a rear yard with a minimum depth of 2.5 inches for each foot of vertical distance between the mean finished grade at the rear of the building and the highest point of the structure's roof. This provision is the same as that which was required in 1964. Accordingly, a rear yard having a width of 18.75 feet was constructed on the east façade of the building over a one-story portion of the building to comply with the required rear yard for a building having a maximum height of 90 feet.

With the addition of the new 8th floor, the required width of rear yard will increase to 22.7 feet. Given the fact that the building occupies 100% of the lot occupancy and shares party walls on both the north and east facades of the building and fronts on streets on the west and south façades, the Applicant is unable to increase the width of the rear yard to comply with this requirements.

Section 774.2 of the Zoning Regulations authorizes the Board of Zoning Adjustment to waive the rear yard requirements set forth in Section 774 of the Zoning Regulations in the C-3-C District in accordance with the requirements of Section 3104 for special exceptions, provided that the standards in Sections 774.3 through 774.6 are met. These standards, discussed below, are satisfied in this case and the Board can thus grant the requested waiver.

§ 774.3 Apartment and office windows shall be separated from other buildings that contain facing windows a distance sufficient to provide light and air and to protect the privacy of building occupants.

The building is separated from nearby windows on the west and south facades by 21st and L Streets respectively. The north façade is a party wall, and both buildings are constructed to the property line. The east façade includes the existing rear yard of 18.75 feet, and thus the building is separated from the existing building to the east by that minimum dimension which will provide sufficient light and air for the occupants of both commercial office buildings.

§774.4 In determining distances between windows in buildings facing each other, the angle of sight lines and the distance of penetration of sight lines into habitable rooms shall be sufficient to provide adequate light and privacy to the rooms.

As noted above, the separation proposed between the building and the adjacent property is of a sufficient distance to provide adequate light and privacy for the proposed project.

§774.5 The building plan shall include provisions for adequate off-street service functions, including parking, and loading areas and access points.

While the Applicant seeks a variance to reduce the amount of parking required based on the constraints of the existing building, the building will provide sufficient parking for the users of the building as described below. The existing loading included in the project is sufficient to meet the demands of the proposed development.

§774.6 Upon receiving an application for approval under §774.2, the Board shall submit the application to the DC Office of Planning for coordination review, report, and impact assessment, along with reviews in writing of all relevant District of Columbia departments and agencies including the Departments of Transportation and Housing and Community Development and, if a historic district or historic landmark is involved, the State Historic Preservation Office.

The application will be submitted to the relevant agencies for review prior to consideration by the Board of Zoning Adjustment

Furthermore, the proposed waiver complies with the spirit and intent of the Zoning Regulations by ensuring adequate light and air to adjacent property and abutting streets. Accordingly, the proposed waiver is in harmony with the purpose and intent of the Zoning Regulations.

III. Burden of Proof - Variance for Reduction in Required Parking

The building was constructed in or around 1965 having two levels of below-grade parking. Because no Zoning Computation Sheet can be located for the existing building, the Applicant has no information as to the minimum parking required at the time of construction or how that minimum parking requirement was calculated. Because it is unclear within what use category - both in 1964 and today - the switch gear equipment falls for purposes of calculating parking, the Applicant sought clarification from the Zoning Administrator as to the appropriate use classification, which the Zoning Administrator currently has under consideration. For purposes of this application, the Applicant has assumed that the use classification for the Verizon switch gear equipment is "Optical Transmission Node". Accordingly, parking is assumed to be required for the renovated and expanded building as follows:

Office Use:	$158,283 - 2,000 = 156,283 / 1,800 = 87$ spaces
Verizon Switch Gear:	$94,193 / 3,000 = 31$ spaces
Total spaces required:	118 spaces

The Applicant will adjust the required parking calculation upon confirmation of the appropriate use classification from the Zoning Administrator.

As noted above, the existing building has two levels of below grade parking within the existing structure. The Applicant is not able to increase the size of the below-grade parking garage as part of the renovation and is not modifying the structure of the building, which dictates

the location of the core and layout of the below-grade space. Accordingly, the parking levels continue to be laid out in generally the same way as when originally constructed in 1965.

If all spaces were provided at standard size, which was required in 1964, the total number of parking spaces that can be accommodated in the existing garage is a minimum of 79 spaces. While compact parking spaces were not permitted in 1964, the Applicant has been able to incorporate some compact parking spaces to increase the number of parking spaces in the garage. With counting those spaces, the total number of parking spaces that can be accommodated in the existing garage increases to 101 spaces. Accordingly, the Applicant seeks variance relief to reduce the number of required parking spaces.

The test for variance relief is three-part: (1) demonstration that a particular piece of property is confronted with some exceptional condition or situation; (2) such that, without the requested variance relief, the strict application of the Zoning Regulations would result in some practical difficulty upon the property owner; and (3) that the relief requested can be granted without substantial detriment to the public good or zone plan.

(A) Exceptional Condition or Situation:

The Site is improved with an existing building constructed in or around 1964 with two-levels of below-grade parking. The existing building will be renovated within the confines of the existing structure. Thus, the existing core and structural elements of the building are in place and dictate the layout of the below-grade parking spaces and the maximum parking that can be accommodated within the building.

(B) Resulting Practical Difficulty:

Strict adherence to the Zoning Regulations would require that the building provide 127 total parking spaces. The existing parking facility can only accommodate a minimum of 79 standard size parking spaces in the configuration shown on the plans submitted herewith. The layout of the parking garage is dictated by the location of existing core and structural columns. Thus, the requested variance results from the existing structural elements, such as ramps, columns and the core, as well as the size and layout of the existing parking garage.

(C) No Harm to Public Good or Zone Plan:

The requested relief can be granted without harm to the public good and without threat to the integrity of the zone plan. The parking to be provided for the newly renovated and expanded building will be sufficient to serve the demands of the existing and proposed uses. Furthermore, the building is located within the Central Employment Area, with close proximity to two Metrorail lines and numerous bus routes. Specifically, the Farragut North Metrorail Station is only approximately three blocks away and the Farragut West Metrorail Station is approximately four blocks away. In addition, there are many major bus lines as well as the Circulator bus line along K Street. Thus, the variance requested will not have an adverse impact.