

**MEMORANDUM**

TO: District of Columbia Board of Zoning Adjustment

FROM: Stephen Cochran, AICP, Case Manager
Joel Lawson, Associate Director Development Review

DATE: March 5, 2012

SUBJECT: BZA Case No. 18308 – Supplemental Report on Modification Request for Approved Project at 460 New York Avenue, NW -- governed by BZA Orders 17723 and 17723-A Square 515 N, Lot 828

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BOARD OF ZONING ADJUSTMENT
District of ColumbiaCASE NO. 18308EXHIBIT NO. 35**I. BACKGROUND**

The Office of Planning's (OP's) February 7, 2012 report on this application recommended approval of modifications to the approved variances from §§ 2001.3 and 2101.1. However, OP stated that the applicant had not yet met the variance tests for the relief requested from § 2116.12, which prohibits above-ground parking within 20 feet of a property line abutting a street.

At the February 14, 2012 hearing the Board asked the applicant to submit additional information:

- To demonstrate that providing 0.57 non-compliant parking spaces per unit is necessary to the success of the project when the required ratio is 0.25 space per unit and when the applicant is seeking complete relief from zoning-compliant parking;
- To demonstrate that the applicant has met the test for variance relief from § 2116.12, with particular foci on
 - The implications of the additional excavation and building stabilization that would be needed to put all parking below grade;
 - Why above-ground parking could not be located farther than 20 feet from a property line abutting a street;
 - What façade treatment would be used to minimize the impact of above-grade parking on pedestrians.

**II. RECOMMENDATION**

The applicant has submitted the requested information and demonstrated: the existence of unique circumstances leading to a practical difficulty; that the conditions are so unusual that granting the relief would not result in substantial harm to the zoning regulations; and that, with the planned window glass selection and landscaping, the granting of the relief would not pose substantial harm to the public good. Therefore, OP recommends that the Board approve:

- The requested modifications to the previously granted variance relief from:
 - § 2001.3, Expansion of Non-conforming Structure
 - (No expansion permitted; 50, 313 square feet proposed [rather than approved 64,505 square feet])
 - § 2101.1, Minimum Off-Street Parking
 - (16 required; 0 compliant spaces proposed)
- The requested new variance from § 2116.12, Setback of Parking Spaces from Property Line
 - (No above-grade parking space permitted within 20 feet of property line abutting a public street; spaces within 20 feet of north and south property lines proposed).

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III. DISCUSSION

The applicant is seeking, and OP has recommended that the Board grant, complete relief from the number of required parking spaces. Nevertheless the applicant wishes to provide 33 to 36 spaces of mechanical parking on the building's ground level in a manner where neither the individual spaces nor their locations would be zoning-compliant.

The Board and OP asked why this non-compliant parking would be needed if relief were granted from providing compliant parking. The applicant has submitted a letter from M & T Bank indicating the institution's unwillingness, given the number of larger units, to provide financing if the parking ratio were reduced below approximately 0.6 spaces per unit. The applicant's survey of nearby apartments and condominiums shows them having parking ratios ranging from 0.72/unit to 1.2/unit.

The applicant has also submitted additional information from its geotechnical engineers and architects, about ground conditions, structural conditions, and about several mechanical parking systems. This information demonstrates that the site's irregular shape, narrow distance from north to south and relatively small size combine to form an exceptional situation that poses a practical difficulty in providing either the parking required by zoning, or the non-zoning-compliant parking desired by the applicant, its lenders and – the applicant submits – the market. The information also demonstrates the practical difficulty in providing compliant or non-compliant parking completely below-grade, or above-grade but no closer than 20 feet from the street-facing property lines.

At the public hearing the applicant demonstrated the number of above-grade levels and multiple elevators that would be needed to accommodate parking above-grade outside the restricted 20-foot-area, and why this would not be practical or desirable. The new information establishes that the desire to retain one of the relatively few remaining industrial buildings in the Mount Vernon Triangle dictates unusually high costs for excavation and stabilization of existing foundations, particularly when all parking must be accommodated inside the building line and not supplemented in vault space. The applicant's architects estimate that the cost of a below-grade mechanical parking system would be \$2 million to \$4.3 million higher than an above-grade option (i.e., an additional \$56,000 to \$119,400 for each of the proposed 33 to 36 mechanical spaces). The cost variation depends on the type of mechanical parking system, whether access would be via ramps or vehicular elevators, and on the number of additional levels excavated to preclude parking being placed next the existing window openings within the restricted area. The applicant has also suggested that the inability of the site to accommodate more than one mechanical elevator could pose difficulties for access to vehicles and circulation on the street if the single elevator were to break down. Overall, the applicant has demonstrated that these costs, and the constraints posed by the size and shape of the site, pose a practical difficulty in locating the parking outside of the area restricted by § 2116.12.

Granting the requested relief is not likely to result in substantial harm to the zoning regulations or the public good. The size and shape of the site, particularly in a high density zone, is unusual enough that there would be relatively few instances where similar circumstances might justify relief from § 2116.12. With respect to appearance and impact on the public, the applicant has agreed to use the type of clear but image-obscuring glass shown under Tab E of the applicant's March 2, 2012 filing. The use of such glass on the windows opening onto parking or mechanical areas on the ground floor would provide visual screening while showing enough light and pattern to provide continuity and interest to the New York Avenue and I Street frontages.

IV. CONCLUSION

Consideration of the applicant's request for relief from the requirements of § 2116.12 has been difficult for OP, especially given how recently the regulation has been put in place. Nevertheless, the applicant's March 2, 2012 filing has convinced OP that the request does meet the tests for granting a variance from the regulation, particularly for a building with such limited linear presence on non-retail or strictly residential streets.