

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

Application for 550 Penn Street, N.E.

PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

I. Background

The subject property consists of Lot 2 in Square 3594 (the "Site"). The Site is located on the northeast side of Penn Street, between 5th and 6th Streets, N.E. The Site contains a land area of 26,251 square feet and is improved with a one-story building that was built in or around 1965. The Site is zoned C-M-1 and is being converted into a facility for light manufacturing/processing uses. The existing warehouse-type building covers 100% of the Site.

The building appears to have originally been constructed for use as a warehouse. Based on the most recent use and certificate of occupancy, the building was used as a floral storage warehouse and distribution center. The existing building has several access points for trucks and cars, but it does not include striped parking spaces or designated loading facilities.

The Applicant seeks to develop the building into a facility for light manufacturing/processing uses, primarily being food preparation-type tenants. Specifically, the project will serve as off-site kitchens for several restaurant operations located across the city. Foods such as smoked meats, chocolate, ice cream, and baked goods are anticipated to be made on-site and distributed to local restaurants. To accommodate these uses, the Applicant will divide the building into multiple parts to be used as shown on the attached site plan. In order to proceed forward with this use of the Site, the Applicant must seek two variances. First, the Applicant seeks a variance to reduce the number of required parking spaces required by Section 2101.1 of the Zoning Regulations. Second, the Applicant seeks a variance to reduce the size of loading berths required by Section 2201.1 of the Zoning Regulations.

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 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 - Variances

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.

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(A) Exceptional Condition or Situation:

The Site is a triangular lot which is improved with an existing one-story building constructed in the mid-1960's. The existing building covers 100% of the Site. The Site has street frontage on two sides, abuts an existing building generally to the east and abuts National Park Service's maintenance site general to the north.

(B) Resulting Practical Difficulty:

The Applicant will demonstrate that the strict interpretation of the Zoning Regulations will result in a practical difficulty upon the Applicant. Specifically, Section 2101.1 of the Zoning Regulations requires parking as follows:

Zoning Requirement	Calculation	Parking Required
Manufacturing, Industrial, or Whole Sale in all Districts	26,251/1,000 sf	26.25 spaces
	TOTAL	26 spaces

Given the existing building, there is no space to construct parking on the Site. While the history of the building indicates that parking was somehow provided within the building, the building was not constructed with the required ventilation systems, including carbon monoxide sensors. Furthermore, the access to any internal parking spaces would be through the same access as for the loading berths; thus, there would be conflicts for that access if it was used for both purposes. Accordingly, the requested variance results from the existing building and how it was originally constructed.

In addition, Section 2201.1 of the Zoning Regulations requires parking as follows:

Zoning Requirement	Loading Requirement	Loading Provided
Manufacturing or Industrial Establishment in all Districts -	1 Berth at 55 feet 1 Berth at 30 feet 1 Platform at 200 sf 1 Platform at 100 sf	2 Berths at 25 feet 2 Platforms at 100 sf

Given the existing building and the proposed uses within it, the Applicant has a practical difficulty in providing a 55-foot loading berth. Based on the anticipated use of the loading facilities and the internal division of space, the Applicant proposes to incorporate 2 berths at 25 feet, which more appropriately fit within the existing space and will fully satisfy the needs of the use within the space.

(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. While no parking is provided, the building is well-situated to multiple means of public transit, including Metrorail, bus routes and the Metropolitan Branch Trail. The Applicant's traffic consultant has evaluated the project and finds that, given the

anticipated uses of the project, similarity in transportation characteristics to that of what has historically been generated by the Site, and the proximity to public transportation facilities, the proposed project will not have an adverse impact on the transportation network.

In addition, based on the proposed use of the project, the loading provided - including 2 berths at 25 feet - will be more than sufficient for the larger tenants. At this time, the Applicant plans to incorporate a smaller, service-delivery space at 10 feet by 20 feet within the mid-size tenant's space. In addition, as initially discussed with the District Department of Transportation, an on-street loading space will be provided for the tenants in the smallest spaces. Based on the anticipated use of the spaces, the loading provided is sufficient.

STATEMENT OF EXISTING AND INTENDED USE

The Site is currently improved with an existing building that covers 100% of the Site. The application proposes maintaining the existing building.