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March 26, 2013

VIA HAND DELIVERY

District of Columbia Board of Zoning Adjustment
441 4th Street, N.W.
Suite 210S
Washington, DC 20001

Re: Application No. 18533 - Prehearing Statement of the Applicant
1827 Adams Mill Road, N.W. (Sq. 2580, Lot 521)

Dear Members of the Board:

On behalf of Perseus 1827 Adams Mill Investments LLC, the Applicant in the above-referenced case, enclosed please find one original and twenty copies of the Applicant's prehearing submission in support of its application for zoning relief requested for the above-referenced property.

We look forward to the Board's consideration of this application at the hearing on April 9, 2013.

Very truly yours,

HOLLAND & KNIGHT LLP

Christopher H. Collins

CHC/lis
Enclosures

cc: Brandice Elliott, Office of Planning (w/encl., by messenger)
Bryon White, DDOT (w/encl., by messenger)
Wilson Reynolds, Advisory Neighborhood Commission 1C (w/encl., by U.S. Mail)
Jimmy Rock, Advisory Neighborhood Commission 1C (w/encl., by U.S. Mail)

#26

Board of Zoning Adjustment
District of Columbia
CASE NO.18533
EXHIBIT NO.26

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

**APPLICATION OF PERSEUS
1827 ADAMS MILL INVESTMENTS
LLC**

**BZA APPLICATION NO. 18533
HEARING DATE: APRIL 9, 2013
ANC 1C**

STATEMENT OF THE APPLICANT

**I.
NATURE OF RELIEF SOUGHT**

This Statement is submitted on behalf of Perseus 1827 Adams Mill Investments LLC pursuant to 11 DCMR §§ 3103.2 and 3104.1, for a variance from the off-street parking requirements under subsection 2101.1¹, and a special exception under Section 411.11 for roof structures of unequal height, one of which does not meet the strict setback requirement, to allow the construction of a mixed use residential building with a ground floor retail/service use in the C-2-A District at premises 1827 Adams Mill Road, N.W. (Square 2580, Lot 521 (formerly Assessment and Taxation Lot 853)).

**II.
JURISDICTION OF THE BOARD**

The Board of Zoning Adjustment (the “Board”) has jurisdiction to grant the variance and special exception relief requested herein pursuant to Sections 3103 and 3104 of the District of Columbia Municipal Regulations (“Zoning Regulations”). 11 DCMR §§ 3103 and 3104.

**III.
BACKGROUND**

A. Description of Property

¹ As originally filed, a variance was also requested from the location of parking spaces beyond the building restriction line (BRL) on Lanier Place, per Section 2116.4(a). However, the Zoning Administrator has recently confirmed that Section 2116.4(a) applies only to surface parking spaces, and not to parking spaces within a below-grade garage. Therefore, variance relief is no longer necessary from this section.

The property is zoned C-2-A and is identified as Lot 521 in Square 2580. At the time that this Application was filed, the property was known as Assessment and Taxation Lot 853. The property fronts on the east side of Adams Mill Road, NW, between Columbia Road and Lanier Place. The property is irregular in shape and contains 14,695 sq. ft. of land area. There is a 10 foot wide public alley abutting the southeast side of the property, with direct access from Adams Mill Road. The property is currently improved with an Exxon gasoline service station.

The site and the adjacent row building to the northeast on Lanier Place are zoned C-2-A, and are surrounded by R-5-B zoning to the northeast, northwest and southwest, and C-2-B zoning to the southeast. The site is one half block north of the intersection of 18th Street and Columbia Road, and is centrally located in the Adams Morgan and Lanier Heights areas. The R-5-B zone is predominated by four to six story apartment buildings and three story row dwellings. There is a non-conforming dry cleaners and a retail store in a one-story building directly across Lanier Place from the subject site. The C-2-B zone contains a variety of different retail and service uses, with many buildings containing residential apartment house use above.

B. Description of Project

The proposed building is a four-story building with ground floor retail/services uses, and three floors of multifamily use above. The residential entry will be located on Lanier Place. The retail entries will be located on both Lanier Place and Adams Mill Road. The building will be 50 ft. in height, and will abut the building restriction lines and/or property lines on Lanier Place, Adams Mill Road, and 10 ft. wide alley. The building will have a 15 ft. rear yard on the east side.² The roof will include a communal roof deck. An elevator and two stairs will provide

² The Office of Planning has raised a question about the proper interpretation of the rear yard setback requirement. Under Section 199 of the Zoning Regulations, the rear yard is "a yard between the rear line of the building...and the rear lot line.... The rear yard shall be for the full width of the lot...". The Applicant believes that based upon the

access to the roof. Lavatories and trellises will be provided on the roof for the communal rooftop recreation space. A 352 sq. ft. closed court will be provided to bring daylight to the corridor and residential units on floors two through four.

The proposed exterior building materials are brick, stone, glass and metal. The ground floor facades consist of rusticated masonry piers, storefronts, and entry canopies with retail signage. The facades of floors two through four consist of brick with soldier, corbel, and rowlock details, and metal/glass bays. The building façade will have a strong cornice line, which is consistent with the design detailing of the surrounding buildings. The proposed building structure will be a concrete podium from the garage level up to the second floor slab. The construction above the second floor slab will be either wood frame, or load-bearing metal studs with a concrete deck floor system.

C. Description of Required Zoning Relief

As summarized below and shown in more detail on Sheet A0.1 of the drawings, a variance is required from the number of retail parking spaces under Section 2101.1.

The project will require 19 parking spaces for the retail portion of the building, and 18 parking spaces for the 36 residential units. Thirteen bicycle parking spaces are required - one per the Zoning Regulations for the retail/service use, and 12 for the residential units per the Bicycle Commuter and Parking Expansion Act of 2007. The project will provide 24 automobile parking spaces and 20 bicycle parking spaces in the garage. One 30 ft. loading berth and one 100 sq. ft. loading platform are also required, and will be provided in the building. Parking and loading will both be accessed from the abutting 10 ft. wide alley.

long standing interpretation and application of that requirement, the 15 ft. required rear yard is properly shown on the plans. To the extent that this issue requires discussion after the public hearing, the Applicant is prepared to address this issue. See also Exhibits H and I hereto.

Special exception relief is also required under Section 411.11, to allow more than one roof structure, to allow roof structures of unequal heights, and to allow one roof structure that does not meet the setback requirement from the rear exterior wall.

IV. **THE APPLICANT MEETS THE TEST FOR VARIANCE RELIEF**

A. **Standards for granting area variances**

Under D.C. Code §6-641.07(g)(3) and 11 DCMR 3103.2, the Board is authorized to grant an area variance where it finds that three conditions exist:

- (1) the property is unusual because of its size, shape or topography or other extraordinary or exceptional situation or condition;
- (2) the owner would encounter practical difficulties if the zoning regulations were strictly applied; and
- (3) the variance would not cause substantial detriment to the public good and would not substantially impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

See Fleischman v. District of Columbia Board of Zoning Adjustment, No. 09-AA-1514, D.C. Court of Appeals (August 25, 2011) at p. 11; French v. District of Columbia Board of Zoning Adjustment, 658 A.2d 1023, 1035 (D.C. 1995) (quoting Roumel v. District of Columbia Board of Zoning Adjustment, 417 A.2d 405, 408 (D.C. 1980)); see also, Capitol Hill Restoration Society, Inc. v. District of Columbia Board of Zoning Adjustment, 534 A.2d 939 (D.C. 1987).

As discussed below, the requested variance meets all three prongs of this test.

B. **The Property is Affected by an Exceptional Situation or Condition.**

There are a number of physical constraints affecting the property, which limit the availability of space for the required number of parking spaces. The property is a C-2-A zoned corner lot, with a 15 ft. Building Restriction Line (BRL) along the entire Lanier Place frontage, and a BRL along approximately 60 percent of the Adams Mill Road frontage. The property is an

irregularly-shaped trapezoid, with 120.77 ft. of frontage on Lanier Place, NW, and 151.3 ft. of frontage on Adams Mill Road, NW. narrowing to 86.86 ft. of frontage along the 10 ft. wide public alley. The southwest wall of the building on the adjacent lot to the northeast, 1790 Lanier Place, encroaches onto the lot, thereby limiting the ability to develop the entire site. In addition, the site has a long history of gasoline station use, and there is believed to be soil contamination below the surface. No other lot in the area shares these characteristics.

C. The Strict Application of the Zoning Regulations Will Impose a Practical Difficulty.

The strict application of the zoning regulations would require 37 parking spaces. It would be practically difficult to include any more parking in the project than the proposed 24 spaces.

The physical limitations of the site create a practical difficulty in meeting the parking requirement. Typically, with a rectangular shaped lot, 400 sq. ft. per parking space is used to determine the number of parking spaces (and associated drive aisles) that can be accommodated in a parking garage. Due to the inefficient trapezoid shape of this site, the maximum number of parking spaces that can be accommodated in the garage results in a computation of 640 sq. ft. per parking space and associated drive aisle. As illustrated on the garage plan Sheet A1.0, the garage configuration is very inefficient, with large open spaces on both the north and south ends of the garage. A rectangular site, without 15 ft. BRL's along two of the four perimeter walls, and without a PEPCO vault on the property, would allow a much more efficient parking garage layout.

Excavation of more than one garage level in order to fully comply with the number of parking spaces required in the Zoning Regulations would also create a practical difficulty. The excavation of an additional level of contaminated soil below the proposed single garage level

will result in significant additional removal, remediation and disposal costs. In addition, the additional excavation, sheeting/shoring, additional underpinning of the adjacent structure, and construction in order to create an additional garage level would add \$1M to the construction cost, all of which will have a direct impact on the sale/rental price for the residential units, the retail space and the parking.

D. Relief Can be Granted Without Substantial Detriment to the Public Good and Without Substantially Impairing the Intent, Purpose or Integrity of the Zoning Regulations.

The requested parking variance is appropriate. The required number of residential parking spaces (18 for the 36 units) will be provided. The variance is required in order to reduce the number of retail/service parking spaces from 19 to 6.

The building footprint and retail/service tenant spaces in the building are small, and will not likely attract a "destination retail" tenant. Rather, the Applicant intends to lease the space for neighborhood-oriented retail or service uses. The property is located approximately 1/2 mile from the Woodley Park/Zoo Metrorail station, approximately 3/4 mile from the Columbia Heights Metrorail Station, and just under a mile from the Dupont Circle Metrorail Station. The property has a walk score of 88% ("very walkable") and a transit score of 77% ("excellent transit") and a bike score of 94% ("biker's paradise") on walkscore.com. Walkscore.com also indicates nine Metro bus routes within approximately 100 yards of the site, and a total of 24 Metro bus routes in close proximity. The DC Circulator bus stop is 67 feet from the site. There are bikeshare stations at Adams Mill Road and Columbia Road, and at Columbia Road and Belmont Road, NW. There is also a zipcar facility one-half block to the south at 18th Street and Columbia Road, NW with several others within 1/4 mile.

V.
THE APPLICANT MEETS THE TEST FOR
SPECIAL EXCEPTION RELIEF FOR A ROOF STRUCTURE

A. Full Compliance with the Roof Structure Requirements Would Be Unreasonable

Special exception relief is required because the elevator penthouse is 15.75 feet in height and the setback from the rear exterior wall is 10.5 ft. In addition, there is more than one roof structure, and the roof structures are of varying heights.

The Applicant proposes to include an accessible communal roof deck on top of the building for the residents. Because of the size of the roof deck, two separate means of egress are required. As shown on Sheet A1.3, the two stairways in the building will be extended up to the roof level to provide this egress. In addition, the elevator adjacent to stairway #1 will be extended to the roof to provide a fully-accessible roof deck. There are also two trellises and lavatories.

The two stairs are required by the Building Code to be remote from each other. The roof plan at Sheet A1.3 shows that the stairways are separated by a distance of approximately 92 feet. In addition, the stair penthouses and lavatories are proposed to be only as tall as they need to be, which is 9.0 feet above the level of the roof. The elevator penthouse will also be built to only the height that it needs to be, which in this case is 15.75 ft. above the level of the roof. The locations of the elevator penthouse and stairway penthouses on the roof are dictated by the locations of the elevator shaft and stairways in the building. The elevator shaft and stairway #1 cannot be located northward, away from the exterior wall adjacent to the rear yard. The elevator penthouse setback dimension is 10.5 ft. from the rear exterior wall.

A single roof structure could theoretically be built to enclose the two stairways, the elevator machinery, the lavatories and the trellises in compliance with the requirement for a single roof structure with a consistent height. However, to require this would be unduly

restrictive and unreasonable, in that it would add unnecessary mass to the roof level of the building for no purpose.

In addition, it would be unduly restrictive and unreasonable to require the elevator shaft and stairway #1 to be shifted away an additional 5.25 ft. from the rear wall, to comply with the strict setback requirement from the rear wall. If these elements were shifted northward to comply with the setback requirement in the rear, they would violate the setback required along the Lanier Place frontage. This would also result in the loss of approximately 10% of the floor area in unit number 1 on floors 2, 3 and 4. These are already the smallest units in the building. Moreover, as can be clearly seen on Sheet A1.2, the locations of the elevator and stairway #1 cannot be switched in order to attempt to comply with the spirit of the setback requirement, because placing the elevator closer to Lanier Place would result in a significant loss of square footage to unit number 1 on floors 2, 3 and 4 in order to provide an accessible elevator clearance. Moving the elevator and stairway #1 westward on the roof to comply with the setback requirements from both Lanier Place and the rear wall would result in an inefficient floor plan, with unusable space between the elevator shaft and stairway, and the east lot line, on all four floors. It would also significantly reduce the size of unit numbers 1 and 11 on floors 2, 3 and 4. It is also not possible to move the northwest exterior wall of the building closer to Lanier Place in order to meet the roof structure setback requirements from both the Lanier Place façade and the rear wall, because of the existence of the BRL along Lanier Place.

B. The Intent and Purpose of the Zoning Regulations Will Not Be Materially Impaired By The Roof Structure, And The Light And Air of Adjacent Buildings Will Not Be Affected Adversely

Construction of the elevator penthouse, stairway penthouses, lavatories and trellises as proposed will be consistent with the intent and purpose of the Zoning Regulations, which is to

minimize the visibility and apparent bulk of the rooftop elements. Moreover, the proposed 5.25 ft. setback relief for the location and configuration of the elevator and stairway #1, and the number and heights of the roof structures, will not adversely affect the light and air of adjacent buildings.

VI. COMMUNITY INTERACTION

Representatives of the Applicant have met twice with the Planning, Zoning and Transportation Committee of ANC 1C (in February and March) and will meet with the full ANC on April 3. The Applicant's representatives also met with the Kalorama Citizens Association and with the immediate neighbors on Lanier Place to discuss the proposal. In addition, the project architects have provided information and illustrations to several of the nearby neighbors in response to specific requests.

VII. EXHIBITS SUBMITTED IN SUPPORT OF THE APPLICATION

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|--------------------------|--|
| <u>Exhibit A:</u> | Portions of the Baist Atlas and Sanborn Atlas Maps showing the Site; |
| <u>Exhibit B:</u> | A portion of the Zoning Map showing the Site; |
| <u>Exhibit C:</u> | Subdivision Plat for Record Lot 521 in Square 2580; |
| <u>Exhibit D:</u> | Transportation Impact Statement from Wells & Associates; |
| <u>Exhibit E:</u> | Outline of Testimony and Resume of Jeff Goins, PGN Architects; |
| <u>Exhibit F:</u> | Outline of Testimony and Resume of Jami Milanovich, Wells & Associates; |
| <u>Exhibit G:</u> | Updated Photos, Architectural Plans and Drawings for the project; |
| <u>Exhibit H:</u> | Zoning Administrator Confirmation Letters regarding rear yard; |
| <u>Exhibit I:</u> | Aerial Photos, Plats and other information regarding rear yard compliance for other buildings with similar lot configurations. |

VIII.
WITNESSES

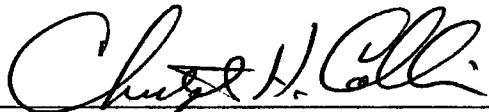
- A. Jeff Goins, Principal, PGN Architects
- B. Jami Milanovich, Principal Associate, Wells & Associates, Traffic Consultant for the project

IX.
CONCLUSION

For the reasons stated above, the requested relief meets the applicable standards for variance and special exception relief under the Zoning Regulations. Accordingly, the Applicant respectfully request that the Board grant the application.

Respectfully submitted,

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