

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

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

**BZA APPLICATION NO. 18533
HEARING DATES: APRIL 9, 2013 AND
MAY 7, 2013
ANC 1C**

SUPPLEMENTAL STATEMENT OF THE APPLICANT

**I.
NATURE OF RELIEF SOUGHT**

This Supplemental Statement addresses the rear yard variance pursuant to Section 774.1. Specifically, the Office of Planning stated in its report of April 2, 2013 (Ex. 27) and testified at the April 19, 2013 public hearing that the 15 ft. minimum required rear yard setback (which by definition is measured from the rear line of the building) must extend across the entire width of the lot, from Lanier Place to the public alley. The Zoning Administrator, in a discussion with the undersigned on April 23, 2013 has indicated that the Board's test to determine the location of the rear lot line in the Mt. Pleasant Library Appeal (Order No. 18152) would apply to determine which of the three lot lines along the northwest side of the site is the rear lot lot.

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

A. The Property is affected by an exceptional situation or condition

The Statement of the Applicant (Ex. 26) already sets forth the standards for granting area variances (Section IV.A.) and describes the exceptional situation or condition affecting the property (Section IV.B.). The irregular shape of the property, as shown in the plans and plat filed with the Prehearing Statement, is the principal exceptional situation or condition in this instance.

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B. The strict application of a requirement to set the rear line of the building back from all of the northeast lot lines would impose a practical difficulty

The requirement to hold the rear line of the building back from all of the lot lines along the northeast side of the lot, in order to create a minimum 15 ft. setback across the entire width of the property, from Lanier Place to the public alley, would impose a practical difficulty on the Applicant for a number of reasons. Similarly, the use of the Mt. Pleasant Library test for the rear lot line location, which would result in setting back only the portion of the building adjacent to 1790 Lanier Place, NW (Lot 157) as the required rear yard, would impose a practical difficulty. The portion of the rear wall of the proposed building that is adjacent to 1790 Lanier Place, NW would no longer be an interior wall, but would instead become an exterior wall. The elevator and stair no. 1, which are adjacent to that lot line in the plans originally filed in this application, would need to be shifted inward from the new rear wall location so that they meet the roof structure setback requirement from this exterior wall. Under the OP interpretation, moving the rear wall of the building to the same plane as the set back from 1790 Lanier Place would also require stair no. 2 to be shifted further inward, to maintain the required roof structure setback. As illustrated under Tab A of this Supplemental Statement, this will create practical difficulties in the internal configuration at every level of the building.

The elevators and stairs would be relocated to the center portions of the garage, within the 20 ft. drive aisles, thus resulting in the loss of 13 of the 24 proposed parking spaces. At the first floor level, the relocation of the elevator and stairs as described would compromise the efficiency of the options for the retail space layout. Moving the rear wall of the building closer to Adams Mill would also move the service corridor further into the building toward Adams Mill Road. The loading berth and loading platform would need to be located outside the building,

adjacent to the garage ramp, with an access door into the building. All loading and trash pickup functions would necessarily be performed outside the building. At the residential levels, the movement of the stairs and elevator as described, coupled with the relocation of the closed court for floors 2 through 4 would result in a loss of 9 units, or 25% of the total proposed residential units. In addition, the six units located along the northeast side would have inefficient layouts.

The additional setback required above-grade for the establishment of a rear line of the building at least 15 ft. from the common lot line with 1790 Lanier Place (and extending that rear building line continuously in a plane from Lanier Place to the alley per the OP interpretation) would result in 3,165 sq. ft. of vacant land on the property. The purpose of variance relief is, in part, "to prevent usable land from remaining idle." Palmer v. DC Board of Zoning Adjustment, 287 A.2d 535 (DC 1972). Moreover, this requirement would reduce the total building volume by approximately 20%, which would adversely impact the economic viability of the development.

C. Relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose or integrity of the Zoning Regulations.

Allowing the building to be built per the originally-submitted configuration, with the 15 ft. rear yard setback as shown along the rear line of the building adjacent to the garage ramp, would neither result in a substantial detriment to the public good, nor would it substantially impair the intent, purpose or integrity of the Zoning Regulations. The configuration as shown in Tab A hereto, setting the building back 15 ft. from the common lot line with 1790 Lanier Place, would result in a 15 ft. wide gap in the continuous row of building facades along that portion of the street. This would be inconsistent with sound urban planning principles that call for a continuous building line along urban streets. This gap would appear to be an undeveloped vacant lot along the street and would not be able to be built upon in the future. The southwest

wall of 1790 Lanier Place is a blank unfinished stucco interior wall, which would remain fully visible in this plan, and which would otherwise be covered under the Applicant's original plan.

Granting the requested relief will be consistent with prior positions of the Office of the Zoning Administrator on the rear yard issue. In a number of rulings reflected elsewhere in the record in this case regarding irregularly-shaped lots, five prior Zoning Administrators have specifically made determinations regarding the proper location and method of measurement of a required rear yard that are consistent with the required rear yard location and method of measurement shown in the original plan in this application. In addition, the record in this case includes a random sampling of a number of buildings on irregularly-shaped lots in the downtown area where the location and method of measurement of the required rear yard is consistent with the location and method of measurement of the required rear yard as shown in the original plan in this application.

III.

ADDITIONAL EXHIBITS IN SUPPORT OF THIS REQUEST

Exhibit A: Plans showing shift of rear line of building

Exhibit B: Outline of Testimony of Jeff Goins, PGN Architects

Exhibit C: Outline of Testimony of Steven E. Sher, Zoning and Land Use Consultant

IV.

ADDITIONAL WITNESSES

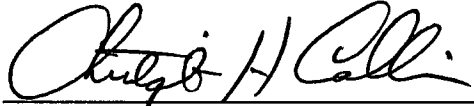
- A. Jeff Goins, PGN Architects
- B. Steven E. Sher, Zoning and Land Use Consultant

V.
CONCLUSION

For the reasons stated above, the requested rear yard variance relief meets the applicable standards for variance relief under the Zoning Regulations. Accordingly, the Applicant respectfully requests that the Board grant the requested relief.

Respectfully submitted,

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