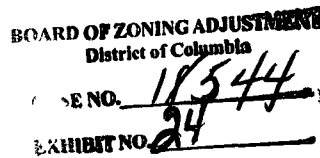


April 15, 2013

HAND DELIVERY

Lloyd Jordan, Chairperson
D.C. Board of Zoning Adjustment
441 4th Street, NW, Suite 200 South
Washington, DC 20001



RECEIVED
D.C. OFFICE OF ZONING
2013 APR 15 PM 1:48

Re: Case No. 18544: Application for Special Exception and Variance Relief for property located at 1550 Pennsylvania Avenue, SE (Lot 130 in Square 1077)
Pre-Hearing Statement of the Applicant

Dear Chairperson Jordan:

Penn Avenue Partnership LLC (the “**Applicant**”) filed an application for variance and special exception relief for the above-referenced property on February 12, 2013. The application seeks variance relief from both the parking and loading requirements as well as special exception relief for the proposed roof structure. The statement included with the initial application materials thoroughly addresses how the proposed project satisfies the special exception and variance relief standards. Pursuant to Section 3113.8, the Applicant hereby supplements the record with the following information:

- Modifications made to the plans in response to comments from members of the surrounding community and the District Department of Transportation (“**DDOT**”) (Exhibit A);
- Comprehensive Transportation Review document and Traffic Demand Management Plan (“**TDM**”), which was submitted to DDOT on April 10, 2013 (Exhibit B);
- A resume of the proposed expert witness and outline of witness testimony (Exhibit C).

Modifications to Plans

A current set of plans for the project is attached as Exhibit A. These plans reflect minor modifications that were made to the project in order to allow for improved vehicular travel

movements along Freedom Way, the named alley which abuts the property, and a modified entrance ramp into the below-grade parking level. Freedom Way is presently one way southbound from Potomac Avenue to Kentucky Avenue. It is only 10 feet wide and includes a sharp turn at the southern end, adjacent to the subject property, which is difficult for vehicles to navigate. Residents of the neighborhood told the Applicant that people frequently head the wrong way (northbound) on Freedom Way in order to avoid this sharp turn. At the request of DDOT and the community, the Applicant has revised the plans in order to improve this turn by widening the alley into the Applicant's property, thereby improving safety and access along Freedom Way.

As shown in the chart below, the only change to the plans which impacts the zoning relief requested is the removal of one parking space¹.

	February 2013	April 2013
Height	50 feet	50 feet
Floor Area Ratio	3.0	3.0
Parking	31 spaces – Relief Requested for number of spaces and providing compact spaces in a garage of less than 25 spaces and contiguity of compact spaces	30 vehicular spaces, 28 bicycle spaces – Relief Requested for number of spaces and providing compact spaces in a garage of less than 25 parking spaces
Lot Occupancy	74%	74%
Rear Yard	60 feet	60 feet
Side Yard	0	0
Loading	Providing a: 200 sf platform; a 30 foot berth and a 20 foot service and delivery space - Relief Requested (not providing a 55' loading berth)	Providing a: 200 sf platform; a 30 foot berth and a 20 foot service and delivery space - Relief Requested (not providing a 55' loading berth)
Roof Structures	One roof structure of varying height - Relief Requested	One roof structure of varying height - Relief Requested

Parking Spaces Provided and Satisfaction of the Practical Difficulty Standard

As a result of the changes to the driveway ramp entrance into the parking structure, the project will include 30 parking spaces rather than the 31 spaces which were included in the initial

¹ However, the number of residential units proposed in this building has been reduced to a maximum of 82 units. Therefore, the Applicant is still seeking variance relief of 11 parking spaces (one space for every two units is required; 41 required spaces vs. 30 provided).

application materials. The Applicant is still requesting relief in order to provide compact spaces in a garage with less than 25 spaces (the garage includes 22 parking spaces), but it no longer requires relief from the requirement that compact spaces be provided in groups of at least five compact spaces. The revised parking garage plan groups 11 compact spaces together.

In regard to the satisfaction of the practical difficulty standard of the area variance relief test, it is well settled that the BZA may consider “a wide range of factors in determining whether there is an ‘unnecessary burden’ or ‘practical difficulty’ Increased expense and inconvenience to the applicant for a variance are among the factors for BZA’s consideration.” Gilmartin, 579 A.2d at 1171 (citing Barbour v. D.C. Bd. of Zoning Adj., 358 A.2d 326, 327 (D.C. 1976)); see also Tyler v. D.C. Bd. of Zoning Adj., 606 A.2d 1362, 1367 (D.C. 1992). Other factors to be considered by the BZA include: “the severity of the variance(s) requested”; “the weight of the burden of strict compliance”; and “the effect the proposed variance(s) would have on the overall zone plan.” Gilmartin, 579 A.2d at 1171. Thus, to demonstrate practical difficulty, an applicant must show that strict compliance with the regulations is burdensome, not impossible.

The efficiency of the proposed parking garage level suffers from several site-related factors. The driveway ramp, for example, comes off the alley as required by DDOT policy. However, since the alley is at the higher end of the site, the driveway ramp must be longer than if the entrance were elsewhere on the site. The dimensions of the lot are somewhat small relative to the required widths and lengths of ramps, aisles and parking spaces. The provision of compact spaces in the parking garage provides some alleviation from these factors, but the site dimensions combined with the irregular shape of the lot create a very inefficient below-grade parking garage. Thus, in order to satisfy the Zoning Regulations’ requirement to provide 42 parking spaces for this project, it will be necessary to add a second level of below-grade parking or to expand the parking garage area into the eastern portion of the English Basement level.

Expansion into the eastern portion of the English Basement level, although possible, would be very inefficient. The odd shape of the lot and the need to design around core elements (such as the elevator, stairs, trash chute, etc.) results in the creation of very few spaces in a large area. The elevator, for example, needs to be more or less in the center of this space in order to comply with the 1:1 setback at the roof level. This largely eliminates the possibility of an efficient double-loaded parking arrangement. Egress stairs could shift to locations different than at upper levels—indeed in larger buildings this is common—but in this small floor plate, it would offset a disproportionate amount of usable space. Also of note is the community approval of English Basement residential units in this area, noting that such dwellings are common in the neighborhood and provide additional “eyes on the street” at the ground level.

A second level of parking in this project is even more inefficient than the first level of parking with all of the constraints noted above. The slope of the ramp heading down to a second level would be significant and would reduce the number of parking spaces on the first level. In addition, the eastern end of the property has a relatively high water table and the elevator core is located in the middle of English basement level which further limits the number of potential parking spaces on that level.

Providing a second level of parking is also extremely expensive given the vertical sheeting and shoring required along the alley and extensive waterproofing that would be necessary. This significant cost of creating a second level of parking ultimately puts the financial viability of this project in jeopardy. As noted above, relevant case law notes that increased expense and inconvenience are factors that the BZA can consider in granting an area variance. In addition, the Applicant's provision of 28 bicycle parking spaces and the TDM (attached as Exhibit B to this document) proposed for this project help assure that granting relief from the requirement to provide 11 additional parking spaces would not have an adverse impact on the overall zone plan. For all of these reasons, the Applicant is faced with a practical difficulty in providing 42 parking spaces on the Property and has satisfied the enumerated standards for the Board of Zoning Adjustment to grant the requested relief.

Roof Structures

No changes are proposed to the roof structures that were depicted in the February 12, 2013 submission. The Applicant is still requesting relief to provide one roof structure of differing heights.

Comprehensive Transportation Review (CTR) and Transportation Demand Management Plan

The Toole Design Group prepared the CTR which addressed the expected parking demand for this project and the impacts that this project (which provides 30 parking spaces), will have on the surrounding streets and community. As noted on page 13 of the CTR:

The proposed development is expected to generate little parking demand, based on land use, development density, transit availability and convenience, bicycle and pedestrian facility availability, and resident demographics.

The CTR also noted that "additional parking spaces are available on the street within a very short walk of the proposed development and thus should additional parked vehicles be generated by this development, there appears to be adequate on-street capacity to handle a modest increase." (CTR, p. 15.)

With input from both the community and DDO^T, the Applicant has developed a thorough TDM that will mitigate any impacts that the proposed parking relief will have on the adjacent properties and surrounding community. The TDM includes the following components:

- encourage alternative forms of transportation by providing residents with a SmarTrip card, membership to a car or bicycle sharing service;
- providing significant bike parking (28 spaces) on site;

- unbundling of all costs related to the parking spaces from the sales price or lease amount of each residential unit;
- no truck idling will be permitted; and
- assignment of a Loading Coordinator to schedule all residential move-in/move-out activities.

Based on the conclusions reached in the attached CTR and the implementation of the TDM, the requested parking relief can be granted without impairing the intent, purpose and integrity of the Zone Plan.

Community Outreach and ANC Support

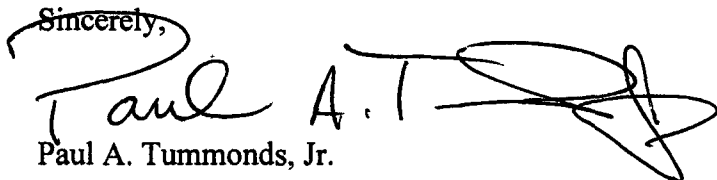
Since filing this application in February, the Applicant has made four presentations to the community regarding this project. Two presentations were made at community meetings hosted by ANC 6B09 Commissioner Brian Flahaven (the Single Member District ANC Commissioner for the Property) and both included approximately 30 attendees. In addition, the Applicant made presentations to the ANC 6B Planning and Zoning Committee and ANC 6B. The Applicant is pleased to report that Advisory Neighborhood Commission 6B adopted a unanimous resolution in support of the application at its regularly scheduled meeting on April 9, 2013.

Hearing Presentation

The Applicant will present two witnesses in support of the project: a representative of the Applicant (Greg Selfridge) and the project architect (Steven Dickens) who will be proffered as an expert in architecture. A copy of Mr. Dickens resume is included in Exhibit C along with outlines of testimony for Mr. Selfridge and Mr. Dickens. The Applicant anticipates needing 15 minutes for its presentation.

Conclusion

We look forward to presenting this application at the public hearing scheduled for April 30, 2013. In the meantime, please feel free to contact the undersigned if you have any questions regarding this submission or the attached materials.

Sincerely,

Paul A. Tummonds, Jr.

Encl.

cc: Certificate of Service

Certificate of Service

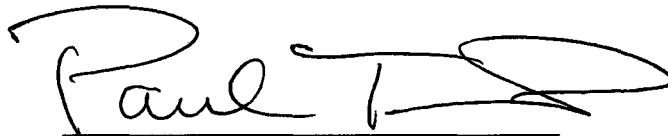
I hereby certify that I sent a copy of the foregoing document to the following addresses on April 15, 2013 by first class mail and hand delivery:

Joel Lawson (By Hand Delivery)
Office of Planning
1100 4th Street, SW
Suite E650
Washington, DC 20024

Murat Omay (By Hand Delivery)
District Department of Transportation
55 M Street, SE
Suite 400
Washington, DC 20003

ANC 6B (By Mail)
921 Pennsylvania Avenue, SE
Washington, DC 20003

Brian Flahaven (By Mail)
ANC 6B09
1628 Potomac Avenue, SE
Washington, DC 20003

A handwritten signature in black ink, appearing to read "Paul Tummonds", written over a horizontal line.

Paul Tummonds