

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

**Application of 47th Avenue, LLC
4700-4704 Wisconsin Avenue, N.W.**

PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

47th Avenue, LLC (the "Applicant"), owner of property located at 4700-4704 Wisconsin Avenue, N.W., submits this statement in support of its application pursuant to 11 DCMR § 3103.2 for an area variance from the number of parking spaces required by section 2101.1, to allow the construction of a new four-story residential building with ground floor and cellar level retail uses. The development will be 50 feet in height and will have 16 residential units.

I. Background

A. Description of the Site

The property at 4700-04 Wisconsin Avenue, N.W. (Square 1733, Lots 800, 833, and 834) (the "Site"), is located on the northwest corner of the intersection of Wisconsin Avenue, N.W. and Chesapeake Street, N.W. The Site is zoned C-2-A and is improved with two low-rise commercial buildings that the Applicant intends to raze in connection with this application. Square 1733 is located in the northwest quadrant of the District and is bounded by Wisconsin Avenue to the northeast, Chesapeake Street to the south, and 42nd Street to the west. The Site itself has 72.85 linear feet of frontage on Wisconsin Avenue, N.W. to the west and 99.36 linear feet of frontage on Chesapeake Street, N.W. to the south. The rear of the Site abuts private property for a length of 37.89 feet to the southwest, and is used as a public alley for a depth of approximately four feet. The north of the Site abuts private property for a length of 93 feet. The Site has a land area of approximately 5,143.8 square feet.

B. Description of Proposed Development

As shown on the architectural plans and elevations (the "Plans") included with the application, the Applicant proposes to construct a new, four-story, mixed-use building with a height of 50 feet. The building will contain approximately 15,379.6 square feet of gross floor area plus 687.4 square feet of cellar floor area. The cellar and first floors will be comprised of approximately 4,411.1 square feet devoted to retail uses; floors two through four will contain approximately 10,214.8 square feet of gross floor area devoted to 16 residential units, and the ground floor will include approximately 753.4 square feet of gross floor area devoted to residential amenity uses. The fourth floor will have a roof deck for building residents accessed from the main hallway. Three parking spaces will be located on-site at the ground level at the rear of the building. The proposed residential and retail uses for the Site are consistent with the Site's zoning designation and with other uses in the neighborhood.

II. Relief Requested

Based on the Site's irregular-shaped lot, steep topography change, and a four-foot easement along its rear lot line, among other extraordinary and exceptional conditions, the Applicant seeks relief from the parking space requirements of section 2101.1 of the Zoning Regulations. That section requires the Applicant to provide one parking space for every two residential units (residential requirement), plus one parking space for each 300 square feet of gross floor area and cellar floor area devoted to retail uses in excess of 3,000 square feet (retail requirement). In this case, the Applicant is required to provide eight parking spaces for the 16 residential units and 11 parking spaces for the proposed retail uses. Instead, the Applicant proposes to provide one handicap parking space and two standard size parking spaces above grade at the rear of the Site.

III. Burden of Proof

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. As described below, the Applicant meets all three prongs of the variance test.

A. Exceptional Condition or Situation

The Site is affected by several exceptional conditions due to its unique shape, steep topography change, the existence of a four-foot wide easement at its rear, and various other constraints regarding the size, location, and number of existing and possible curb cuts on the surrounding streets. These conditions inherent in the Site create practical difficulties in complying with the strict requirements of the parking provisions of the Zoning Regulations, as described below.

The Site is a small, irregular-shaped corner lot, surrounded on two sides by private property and with no public alley access. The Property has 72.85 feet of frontage on Wisconsin Avenue to the east and 99.36 feet of frontage along Chesapeake Street to the south. The only existing curb cut to the Site is on Chesapeake Street, which will be eliminated during the redevelopment process due to the extensive number of curb cuts already located on this section of Chesapeake Street. Furthermore, the District Department of Transportation ("DDOT") will not permit the Applicant to establish a new curb cut on Wisconsin Avenue at the front of the Site, due to its designation as a major arterial road. To the rear of the Site is an eight-foot public access easement, which encroaches four feet onto the western-most portion of the Site and is used by other property owners in Square 1733 for alley purposes. Finally, the Site is burdened by a steep topographic shift, sloping almost ten feet down from the front of the Site along Wisconsin Avenue toward the rear of the Site at the public easement.

B. Resulting Practical Difficulty

The Applicant would encounter practical difficulties in meeting the strict application of the parking requirements of the Zoning Regulations. Section 2101 of the Zoning Regulations requires that apartment houses in the C-2-A District provide one parking space for each dwelling unit, or in this case eight spaces. Section 2101 also requires that retail and service establishments in the C-2-A District provide one parking space for each 300 square feet of gross floor area and cellar floor area in excess of 3,000 square feet, or in this case, 11 spaces. Thus, strict compliance with the Zoning Regulations would require the proposed development to provide 19 standard parking spaces on-site for the mixed-use building.

Due to the small size and irregular shape of the Site, the existence of a four-foot wide easement at the Site's rear, and the steep topography change, the Applicant cannot excavate the Site to provide below-grade parking, ramps for two-way circulation, and sufficient drive aisle widths. The minimum width for a ramp to access a below-grade garage is approximately 60 feet; however, the rear of the Site is less than two-thirds that width, and this is the only location where access to the garage would be appropriate, given the existence of the eight foot access easement and the inability to establish any new curb cuts on Wisconsin Avenue or Chesapeake Street. In addition, if the Applicant excavated the Site to provide below-grade parking, the ramp and aisle widths would leave room for only a limited number of spaces, thus requiring a large number of below grade levels to achieve the required number of parking spaces. The additional excavation, sheeting/shoring, underpinning, and construction required to create more garage levels would add a significant expenditure to construction costs, which would have a direct impact on the sale/rental price for the residential units and retail space above.

Alternatively, if the Applicant provided parking on the ground floor level to avoid excavating the Site, there would be no space for retail uses, which would undermine the Comprehensive Plan's desire to encourage active ground floor retail, especially along major mixed-use corridors such as Wisconsin Avenue. Finally, given the Site's close proximity to multiple alternative transportation options, including the Metrorail, Metrobus, bicycle lanes and routes, and bike- and car-share facilities, there is simply no need to provide the required number of parking spaces as specified in section 2101.1 of the Zoning Regulations.

C. No Harm to Public Good or Zone Plan

The requested relief can be granted without substantial detriment to the public good and without threat to the intent, purpose, or integrity of the zone plan. With respect to the public good, the development will provide a new, mixed-use development in the Tontletown neighborhood along Wisconsin Avenue, N.W., one of the District's major transportation corridors. The new building will contribute significantly to the vibrancy of the neighborhood, put additional "eyes and ears" on the street, and support the city's housing goals for the area.

In addition, the requested parking variance will not compromise the zone plan, since the project will include three on-site parking spaces that will adequately serve the needs of the

prospective residential tenants, retail employees, and retail customers. The Site is located in close proximity to numerous public transportation facilities, including the Tentleytown Metrorail Station, which is located 0.3 miles from the Site and services the Red Line. The Site is located along numerous Metrobus lines, including routes 31, 32, 36, 37, 96, H2, H4, M4, N2, and X3, all of which are located within 0.2 miles of the Site. There are two Capital Bikeshare stations within three blocks of the Site, and multiple car-share facilities and options in the vicinity. The Site is within easy walking distance of multiple restaurants and bars, a grocery store, Fort Circle Park, and many other retail and service establishments in the Tentleytown shopping district. Walkscore.com designates the Site as "very walkable" with a Walk Score of 86 out of 100 (see www.walkscore.com).

In addition, the Applicant is proposing to restrict residents from obtaining Residential Parking Permits ("RPPs"). To offset this restriction, the Applicant will offer memberships to Capital Bikeshare and car-share programs, SmarTrip fare cards, and ample and secure on-site bicycle parking. Based on the availability and ease of using alternative transportation options, and because the development will be marketed to households who do not need or want to own a car, the requested parking variance can be granted without harm to the public good and without threat to the integrity of the zone plan.

IV. Conclusion

Pursuant to section 3113.8 of the Zoning Regulations, the Applicant will file its Prehearing Statement of the Applicant with the Board no fewer than 14 days prior to the public hearing for the present Application. Through the Applicant's written statement, and through testimony and evidence presented at the public hearing, the Applicant will demonstrate how it meets its burden of proof to obtain the Board's approval of the requested relief.