

BEFORE THE DISTRICT OF COLUMBIA BOARD OF ZONING ADJUSTMENT
APPLICATION OF DISTRICT OF COLUMBIA CVS PHARMACY LLC
6-7 Dupont Circle, N.W. (Square 114, Lot 25)

PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

I. BACKGROUND

District of Columbia CVS Pharmacy LLC ("Applicant") proposes to remove and replace four existing roof structures as part of an interior fit-out alteration and expansion of the CVS Retail Pharmacy in the existing two-story building located at 6-7 Dupont Circle, N.W. (Square 114, Lot 25). The property is located in the DC/C-3-C District and is within the Dupont Circle Historic District and the Massachusetts Avenue Historic District.

The existing building on the site is owned by the Applicant, which presently operates a CVS Retail Pharmacy on the ground floor. The building occupies 100 percent of Lot 25, with approximately 60 feet of linear frontage on 20th Street to the west, approximately 117.58 feet of linear frontage on P Street to the north, and approximately 63 feet of linear frontage on Dupont Circle to the east. The south of the site is bounded by private property.

The second floor of the building is presently vacant and was most recently used as office space for the CVS. The Applicant plans to expand the CVS retail store into the second floor of the building and incorporate a new CVS Minute Clinic that will offer walk-in medical services staffed by nurse practitioners and physician assistants. As part of the building's renovations, the Applicant will upgrade the building's mechanical, plumbing, and electrical systems, including removing and replacing the deteriorated mechanical units on the roof. Pursuant to sections 411.3 and 411.6, these mechanical units are required to be placed in one enclosure.

II. RELIEF REQUESTED AND STANDARD OF REVIEW

Due to the site's location in two historic districts and the building's contributing character to those districts, the Historic Preservation Office disapproved the Applicant's plan to enclose the mechanical equipment in one structure because of its incompatibility with the historic districts. The Applicant thus seeks a special exception to allow these mechanical units to remain unenclosed.

A. Burden of Proof

Relief granted through a special exception is presumed appropriate, reasonable and compatible with other uses in the same zoning classification, provided the specific regulatory requirements for the requested relief are met. In reviewing an application for special exception relief, "[t]he Board's discretion ... is limited to a determination of whether the exception sought meets the requirements of the regulations." *Gladden v. District of Columbia Bd. of Zoning Adjustment*, 659 A.2d 249, 255 (D.C.).

1995) (*quoting Stewart v. District of Columbia Bd. of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973)). If the applicant meets its burden, the Board must ordinarily grant the application. *Id.*

Pursuant to section 411.11 of the Zoning Regulations, the Board may grant special exception relief from the strict requirements for a roof structure where full compliance is "impracticable because of operating difficulties, size of building lot, or other conditions relating to the building or surrounding area" and would be "unduly restrictive, prohibitively costly, or unreasonable." 11 DCMR § 411.11. The Board may approve deviations from the roof structure requirements provided the intent and purpose of Chapter 400 and the Zoning Regulations are not "materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely." *Id.* In this case, special exception approval is required because there will be multiple roof structures on the single building.

As shown on the photographs of the roof included with this application, there are presently four roof structures on the building that house mechanical equipment (shown as "RTUs" 1, 2, 3, and 4 on the building plat and architectural plans). Due to their age and deteriorated condition, the Applicant proposes to replace the existing units with new units of approximately the same size and in the same locations, using the same roof framing and curbs that were constructed for the original units. The Applicant also plans to install a fifth new mechanical unit to replace the outdated split system heat pumps that are presently on the roof and do not have the capacity to support the existing and expanded uses ("RTU 5" on the building plat and architectural drawings). This new unit will rise to a height of 3 feet, 10 inches, and is therefore not considered a roof structure for zoning purposes. All of the structures are significantly set back from the building's exterior walls and are not visible from the street.

The Applicant is unable to construct a single structure that encloses all of the roof structures as required by the Zoning Regulations. The number and location of roof structures is dictated by (i) the design of the existing roof and the location of the existing roof structures, (ii) the weight limitation that the existing roof can support, and (iii) mechanical functions within the building. Relocating the existing units into a single roof structure would require redesigning the roof to support weight in another location and reconfiguring the building's mechanical systems. Earlier this year, the Applicant attempted to resolve this issue by designing a single large structure that would enclose the individual units in their current locations. However, this design resulted in a massive structure that was visible from the street and ultimately rejected by staff at the Historic Preservation Office.

The location and number of roof structures is also constrained by the site's location in two historic districts and the building's contributing character to those districts. A steep mansard style roof wraps an interior flat roof where the mechanical equipment is located. The roof's features include large eaves and terracotta shingles, with a high front along Dupont Circle and P Streets. The roof's slope can hide some, but not all, of the roof structures, such that any structure that disrupts the roof line will be incompatible with the historic district.

Each roof structure is a necessary feature of the building. The location and number of roof structures is driven by the existing mechanical system within the building and the layout of the building's core functions. The Applicant is providing the greatest set backs possible given the size and

dimensions of the existing roof and the internal configuration of the building. There is a limited amount of flat roof space available to locate the roof structures in one enclosure with the required 1:1 set backs from all exterior walls. The units cannot be moved closer together or combined into a single structure since space is needed between the roof structures to allow airflow. Based on these conditions relating to the building and its location in an historic district, a compliant roof plan that enclosed all of the mechanical units in a single structure was disallowed by the Historic Preservation Office.

The alterations proposed for the roof were approved by staff at the Historic Preservation Office. The requested roof structure locations and design will not adversely affect the light and air of adjacent buildings and will not be visible from the surrounding streets. Therefore, the intent and purposes of the Zoning Regulations will not be materially impaired and the light and air of adjacent buildings will not be adversely affected.

III. CONCLUSION

Pursuant to section 3113.8 of the Zoning Regulations, the Applicant will file its 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.