

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

**Application of Jemal's Bulldog L.L.C
1011 K Street, N.W.
(Lots 4, 5, 53, and 809 and a portion of a public alley to be closed in Square 342)**

Preliminary Statement of Compliance with Burden of Proof

This statement is submitted by Jemal's Bulldog L.L.C., the owner of the property located at 1011 K Street, N.W. (Lots 4, 5, 53, and 809 and a portion of a public alley to be closed in Square 342) (the "Site"), in support of its application pursuant to 11 DCMR §§ 3103.2 and 3104.1 for (1) an area variance from the parking requirements of § 2101.1; (2) an area variance from the loading requirements of § 2201.1; (3) an area variance from the court requirements of § 776; and (4) special exception relief from the rear yard requirements of § 774, to allow the construction of a new 13-story hotel in the DD/C-3-C District at the Site.

Pursuant to § 3113.8 of the Zoning Regulations, the Applicant will file its Statement of the Applicant with the Board no fewer than fourteen days prior to the public hearing for the present application. In this statement, and at the public hearing, the Applicant will provide testimony to meet its burden of proof to obtain the Board's approval of the requested variance and special exception relief. Following herein, as required by the Board's application process, is a preliminary statement indicating how the Applicant meets the burden of proof.

I. Background

The Site consists of Lots 4, 5, 53, 809, and a portion of a public alley to be closed in Square 342. Square 342 is bounded by L Street and Massachusetts Avenue to the north, 10th Street to the east, K Street to the south, and 11th Street to the west, all located in the northwest quadrant of the District. Square 342 is located in downtown Washington, D.C., and is approximately two blocks from Mt. Vernon Square to the east and two blocks from Franklin Square to the west.

The Site is located on the southwest corner of Square 342 and has a combined land area of approximately 7,311 square feet. The Site is bounded by private property (Lot 810) and a 12-foot wide public alley to the north, private property (Lot 3) to the east, K Street, N.W. to the south, and 11th Street, N.W. to the west. The Site is improved with two vacant four-story building on Lots 809 and 53, and surface parking on Lots 4 and 5. Lot 810 to the north of the Site is improved with an eight-story building occupied by Hostelling International; Lot 3 to the east is improved with a two-story office building.

The Site is located in the DD/C-3-C District and is within Housing Priority Area B. The C-3-C District permits a hotel as a matter-of-right, with a maximum height of 90 feet and a maximum density of 6.5 floor area ratio ("FAR"). 11 DCMR §§ 770.1 and 771.2. Based on the Site's location within the Downtown Development Overlay District, the Site may be developed

with a building having a maximum height of 130 feet, based on the Site's frontage on K Street, N.W., and a maximum density of 9.5 FAR. 11 DCMR §§ 1701.7, 1706.5(a), and 1706.7(a)). Section 1706.5(b) requires that a minimum of 3.5 FAR be devoted to residential uses, which will be satisfied for this project off-site through combined lot development.

As shown on the architectural plans and elevations included with this submission, the Applicant proposes to develop the Site with a new 13-story hotel. The Applicant will restore and incorporate the facades of the existing four-story buildings into the new construction. Restaurant/retail will occupy the first two floors of the renovated structure, and hotel rooms will occupy the third and fourth floors. The new construction will have a height of 130 feet comprised of 200 guest rooms on floors 3-13; a lobby, bar, lounge/library, exercise room, and two conference rooms. The building's cellar will contain a kitchen, storage space, administrative and back-of-house hotel uses, including offices, mechanical utility rooms, a laundry room, and bathrooms. The overall development will contain approximately 69,330 square feet of gross floor area. Development of the Site will help satisfy demand for hotel rooms in the District and will continue the ongoing growth of the downtown area.

II. Burden of Proof - Variances

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 can meet its burden of proof for the area variances requested.

(A) Exceptional Condition or Situation

The Applicant will demonstrate that the Site is exceptionally narrow and oddly configured, with 121.25 linear feet of frontage along K Street, but only 30.92 linear feet of frontage along 11th Street, and 50 linear feet of frontage along the public alley at the rear of Lots 4 and 5. The Site is otherwise surrounded by improved private property. This configuration places substantial restrictions on the space available for courts and yards. At only 50 feet wide, there is insufficient width at the Site's rear along the public alley to locate a driveway and ramp for access to on-site parking, loading facilities, egress stairs, and an exit corridor for trash pickup.

Furthermore, development is significantly constrained due to the existing buildings on the Site, which were constructed circa 1880. The Applicant intends to preserve and incorporate significant portions of the existing structures into the design and program of the new construction, as well as to limit new construction above the nineteenth century buildings, all of which creates additional design and programmatic constraints that generate the need for zoning relief.

(B) Resulting Practical Difficulty

1. Parking

Section 2101.1 of the Zoning Regulations requires that the proposed development provide one parking space for each four hotel rooms, plus one parking space for each additional 300 square feet of floor area in either the largest function room or the largest exhibition space, whichever is greater. In this case, the proposed development requires 50 parking spaces for the 200 hotel rooms; nine parking spaces for the largest function room (2,770 square feet); and five parking spaces for the restaurant use, for a total of 64 spaces. However, the Applicant is seeking a variance to not provide any on-site parking spaces.

Given the Site's small size and narrow, irregular configuration, it is practically difficult to provide on-site parking. A ramp leading to a below-grade parking garage would require a 14-foot wide driveway at the rear of Lots 4 and 5, accessed from the public alley. 11 DCMR § 2117.8. Given that the majority of the Site's rear width is already allocated to required loading facilities, rear exit corridor, and a ramp for trash removal, there is no space left to locate a parking ramp entrance. Furthermore, it is practically difficult to construct a ramp in this location because it would eliminate a large portion of the ground floor of the building devoted to loading, trash, and the hotel lobby, plus additional space in the cellar, making development of the Site with hotel use practically difficult.

In addition, due to the Site's narrow width and the location of the proposed building's columns and core elements, the Applicant could fit very few parking spaces on each excavated parking level, due to the minimum required drive aisle widths of 20 feet and the maximum ramp slope of 12 percent. See 11 DCMR §§ 2117.6 and 2117.8(a). Thus, a large number of below-grade levels would be necessary to achieve the required 64 parking spaces, and such construction and excavation would be at a significant cost. While the Applicant proposes to provide one cellar level for back-of-house hotel uses, these types of uses would still need to be accommodated in the building even if below-grade parking was also provided, which would further exacerbate the practical difficulty of providing on-site parking. Based on the constraints of the Site and these practical difficulties, the Applicant requests a variance from the parking requirements of section 2101.1.

2. Loading

Section 2201.1 of the Zoning Regulations requires that a hotel with 30 to 200 rooms include the following loading facilities: (i) one loading berth at 30 feet deep, (ii) one loading platform at 100 square feet, and (iii) one service/delivery space at 20 feet deep. In this case, the Applicant proposes to provide the required loading berth and platform, but cannot provide the 20 foot service/delivery space.

Given the Site's narrow width and irregular configuration, it is practically difficult to provide the required service/delivery space. If provided, the service/delivery space would interfere with the location of the exit corridor, the entrance ramp into the building from the loading area, and/or would eliminate space proposed for the trash compactor. If the Applicant pushed the entrance ramp and/or trash compactor farther into the ground floor of the building to make room for a service/delivery space, the hotel lobby, elevators, building core, and the

configuration and location of the building's structural columns would be impacted, making development practically difficult. For these reasons, the Applicant requests a variance from the requirement to provide one 20-foot service/delivery space.

3. Courts

For a building devoted to non-residential uses, courts must have a minimum width of three inches per foot of height, but not less than 12 feet. 11 DCMR 776.1. A closed court must have a minimum area of at least twice the square of the width of court based upon the height of court, but not less than 250 square feet. 11 DCMR § 776.2. As shown on the plans, the Applicant proposes to provide (i) a closed court measuring 6 feet wide by 12 feet long in the building's north façade where the two wings intersect ("Court 1"); and (ii) a closed court measuring 6 feet wide by 64 feet, 9 inches long along the east side of the building ("Court 2"). These courts do not comply with the dimensional requirements for closed courts and require variance relief.

The Zoning Regulations do not require courts at all. However, the Applicant is providing the courts to increase the light and air to the adjacent buildings, provide east-facing windows on the proposed building, provide a window for Room 17 on Floor 3 and the bank of rooms above it, and to enhance the proposed building's aesthetic and enjoyment for hotel guests. Providing a compliant Court 1 is practically difficult because doing so would eliminate storage space, interfere with core elements and column spacing, and reduce the width of the corridor.

Providing a compliant Court 2 on the east side of the building is practically difficult given the Site's exceptionally narrow width in this location. If the Applicant provided a compliant court, the entire row of east-facing hotel rooms (approximately 99 rooms) would be too narrow to comply with the Building Code's bedroom size requirements. If the Applicant moved this row of rooms to the west to accommodate a compliant court and provide the required bedroom size, it would eliminate the space necessary for the elevators and egress stairs, which are required per the Building Code and essential to the proper functioning of the building. Alternatively, if the Applicant did not provide this court at all, the entire row of east-facing hotel rooms (approximately 99 rooms) would have at-risk windows, making hotel development practically difficult. As a result, strict compliance with the closed court regulations would severely compromise the layout of the building's interior and/or greatly reduce the number of hotel rooms, making development practically difficult.

(C) No Harm to Public Good or Zone Plan:

The requested relief can be granted without harm to the public good and without threat to the integrity of the zone plan. Although the Applicant proposes to provide no on-site parking spaces, hotel guests and restaurant patrons will have easy accessibility to multiple alternative forms of public transportation given the Site's location in a walkable mixed use neighborhood. The Site has a "Transit Score" of 100, as rated by www.walkscore.com, due to its location 0.3 miles from the Gallery Place Chinatown Metrorail Station, which services the Green, Red, and Yellow Metrorail lines, and its close proximity to multiple Metrobus lines, Capital Bikeshare stations, and car-share facilities. The Site is also considered a "Walker's Paradise" with a "Walk

Score” of 94 out of 100, which will enable hotel guests and restaurant patrons to easily access the Site by foot. Furthermore, as will be explained in the Applicant’s transportation analysis that will be submitted into the record with the Applicant’s prehearing materials, providing no on-site parking is appropriate for the proposed hotel use and will have no adverse impact on traffic or on-street parking in the area. Moreover, the public good will be served by a high-quality infill development project that provides much needed new hotel rooms to District visitors.

The proposed loading facilities are also sufficient to serve the needs of the proposed hotel and restaurant uses. The project provides one berth at 30 feet deep and one platform at 100 square feet. As will be explained in the transportation report, these loading facilities are more than adequate for the proposed mix of uses that can reasonably share loading space.

Finally, providing non-compliant closed courts will improve the experience of hotel guests and will not negatively affect occupants of the adjacent buildings. The proposed courts provide sufficient space between the proposed building and the adjacent buildings, and they fully comply with the Building Code requirement to provide light and air for building occupants. The courts allows the Applicant to construct a hotel with windows on all sides, which will improve the experience for hotel guests without encroaching on their privacy or the privacy of users of the adjacent buildings. Thus, the courts as proposed will not have an adverse impact to the public good or the zone plan.

III. Burden of Proof - Special Exceptions -- Rear Yard – Section 774

In the C-3-C District, a building must provide a minimum rear yard of 2.5 inches per foot of vertical height, but not less than 12 feet. 11 DCMR § 774.1. The depth of the rear yard may be measured from the center point of an alley. 11 DCMR § 774.9. In this case, the Site must have a minimum rear yard of 26.2 feet deep. However, the Applicant proposes to provide a rear yard of six feet deep, as measured to the center of the public alley to the north of the Site. Pursuant to § 774.2, the Board may waive the rear yard requirements pertaining to a C-3-C District provided that the following standards are met:

1. *Apartment and office windows shall be separated from other buildings that contain facing windows a distance sufficient to provide light and air and to protect the privacy of building occupants.*

The Site has a 12-foot wide east-west serving public alley at its rear. Across the alley from the Site is an 11.75-foot public alley running north/south, an office building to the northeast, and an apartment house to the northwest. Both the office building and the apartment house are set back from their southern property lines where they are closest to the Site, creating additional open space in this location. Thus, the existing alley system and the significant building set backs result in a condition where the proposed north-facing hotel windows at the rear of the Site will be separated from the existing buildings across the alley at a distance sufficient to provide adequate light, air, and privacy for all building occupants.

2. *In determining distances between windows in buildings facing each other, the angle of sight lines and the distance of penetration of sight lines into habitable rooms shall be sufficient to provide adequate light and privacy to the rooms.*

The proposed building was designed to limit the angle of sight lines and maximize the distance of penetration of sight lines into habitable rooms. Principal windows that overlook the rear alley are positioned so that privacy is adequately protected. The rear yard relief will have little impact on the angle of sight lines due to the existing alleys and set backs that separate the proposed building from the rear windows of the existing buildings to the north.

3. *The building plan shall include provision for adequate off-street service functions, including parking and loading areas and access points.*

The proposed building plan provides adequate off-street service functions. Although the building will not provide on-site parking, the Site's central location in a walkable, mixed-use neighborhood, and its close proximity to numerous public transportation options eliminates the need to provide on-site parking. The building will provide adequate loading facilities for its proposed uses, which will be accessed from the public alley.

4. *Upon receiving an application for an approval under §774.2, the Board shall submit the application to the D.C. Office of Planning for coordination review, report, and impact assessment, along with reviews in writing of all relevant District of Columbia departments and agencies including the Department of Transportation and Housing and Community Development and, if a historic district or historic landmark is involved, the State Historic Preservation Officer.*

The Applicant will meet with the Office of Planning and the District Department of Transportation in compliance with 11 DCMR § 774.2.