

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

Application of Bourbon Two Real Estate, LLC/William Thomas

APPLICANT'S HEARING STATEMENT

November, 2015

This Pre-Hearing Statement ("Statement") outlines the existing and proposed use of the property of application and the manner in which the application ("Application") complies with the specific tests and burden of proof for the variances sought in this application before the Board of Zoning Adjustment (BZA)

NATURE OF RELIEF SOUGHT

This is an application pursuant to 11 DCMR § 3103.2 for variance to allow the construction of an addition to existing building which is occupied for commercial purposes which will not comply with the minimum rear yard setback requirement set forth under § 774.1 for the underlying C-2-A zone district within which the subject property is located.

SUMMARY OF APPLICATION

The applicant seeks the above area variance pursuant to 11 DCMR § 3103.2 under §774.1 to allow the construction of an addition within a landlocked area of the rear of the subject property imposed upon it by the requirement to comply with the egress requirement of the Construction Codes for the proposed use of the premises as a restaurant or Assembly Use Group, as that term is defined in the relevant municipal codes.

The application comprises of two properties located within the same Square and on Lots 10 and 11. The applicant intends to consolidate these two lots into a single lot of record and intends the completed project as a single tenant restaurant use

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Hence combined, the subject property constitutes a corner lot which is landlocked and without public alley access.

Whereas Lot 11 is currently situated on an assigned address of 1771 U Street NW, Lot 10 is located at the intersection of 18th and U Streets and assigned the address 2001 18th Street NW. The subject property of application also features a seeming third building with the address, 2001½ 18th Street and with its independent entrance and frontage on 18th Street, notwithstanding that it is not located on a separate lot.

The preponderance of the proposed addition is actually with respect to this “third” building, the interior of which will be largely gutted to accommodate two floors of proposed addition, roof deck on 1771 U Street and the required stair egress enclosures to comply with the minimum required number of egress, as prescribed by the Construction Codes.

JURISDICTION OF THE BOARD

The application is properly before the BZA. The Board is authorized to grant the requested variances under § 8 of the Zoning Act, DC Official Code § 6-641.07 (g) (3) (2001), as further set forth in 11 DCMR § 3103.2

PROPERTY LOCATION AND PROJECT DESCRIPTION

The property is located in Square 2557, Lots 10 and 11 and is within the boundaries of Strivers’ Section Historic District in the Adams Morgan neighborhood of NW.

Although the subject property of application comprises of two lots, Lots 10 and 11, ultimately when consolidated the property in whole will constitute a corner lot located at the intersection of 18th and U Streets

The properties are currently improved with what essentially are three one-story structures for all intents and purposes given that three T-shaped fire walls which demarcate and separate the buildings; one separating the 1771 U Street and 2001 18th Street, and the other separating 2001½ 18th Street north of the two buildings facing U Street, notwithstanding that all buildings are currently situated on two lots. As aforementioned, the applicant intends to combine the two current lots into a single lot of record, such that the completed building constitutes one building on a single lot of record.

The combined lot area after the subdivision to consolidate lots 10 and 11 is 2,648.07 square feet. The existing combined gross and cellar floor area is 3,527 ft², of which cellar floor area is approximately 1107 ft². Hence existing floor area ratio (FAR) is 0.91, whereas an FAR of 1.5 is permitted.

The applicant proposes an increase in cellar floor area of 1,510 ft² for a combined total of 2,617 ft² and a modest increase of 517 ft² including density devoted to stair enclosures serving as access to the proposed roof top assembly space.

The proposed FAR of 1.1 is well below the maximum allowed of 1.5 for a permitted commercial use.

STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

The Applicant, by preponderance of the materials submitted with this Application, facts to be presented in the course of the public hearing and further evidence to be submitted fourteen days prior to the hearing date, will prove compliance with the three prong test necessary for the granting of the area variance sought, as outlined below.

The Board is authorized to grant an area variance where a property demonstrates three characteristic elements:

1. The subject property must demonstrate a unique physical characteristic of shape or size, exceptional narrowness or shallowness which existed as of the time of the original adoption of the Zoning Regulations, or that there exists exceptional topographical conditions or other extraordinary or exceptional situation or condition of property;

2. That the physical characteristic(s), or extraordinary or exceptional situation or condition of the property makes the strict application of the Zoning Regulations result in peculiar and exceptional practical difficulties to the owner of the property;
3. That the Board is able to grant the variance without substantial detriment to the public good and without substantial impairment of the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

EXTRAORDINARY SITUATION OR EXCEPTIONAL SITUATION OR CONDITION OF PPROPERTY

The applicant contends that the subject property demonstrates an extraordinary situation or exceptional condition of property by virtue of the fact that seemingly three buildings forming a T-shaped structure exists on two lots of record, including that this extraordinary situation or exceptional condition of property existed prior to the May 12, 1958 adoption of the Zoning Regulations.

The two lots comprising the subject property are the last two lots at the confluence of three streets; 18th Street, Florida Avenue, and Vernon Street. In fact the seeming three buildings have had separate addresses prior to May 12, 1958 as follows;

- a. 1771 U Street for lot 10
- b. 1773 U Street and 2001 18th Street for lot 11.

The significance of the two addresses for lot 11, which is an L-shaped lot, is the fact that the structures which have always occupied lot 11 have always functioned as two separate buildings.

Given that the lots in their present configuration or in their combined state are landlocked and their location within a commercial zoning district, making use of the subject property for its commercial purpose and meeting applicable provisions of other municipal regulations are constrained by the specific extraordinary situation or exceptional condition of property described above.

The applicant therefore contends that there exists an extraordinary situation and exceptional condition of property as described above which forms the basis for compliance with the first burden of proof

PECULIAR AND PRACTICAL DIFFICULTIES TO OWNER OF PROPERTY

The extraordinary situation or exceptional condition of property results in peculiar and practical difficulties upon the owner, because the strict application of the Zoning Regulations results in impractical floor space building design which is constrained from compliance with other municipal regulations affecting minimum required means of egress for the proposed use of the subject property.

The local Construction Codes Supplement subjects an Assembly Use Group, which includes a restaurant, to a minimum two means of egress when the use is within a two story building. Required egress is also required to discharge directly into a public right of way, such as a street or public alley.

As noted, the subject property is landlocked building design is therefore constrained to design egresses which necessarily discharge unto U and 18th Streets respectively. A careful review of the proposed addition should lead to the conclusion that the design is singularly driven by the need to meet the minimum requirements of the Construction Codes with respect to means of egress, their requisite separation distance between the minimum two means of egress, for the express purpose of having outdoor roof top seating or assembly.

The proposed rehabilitation and addition to the subject property is intended to improve its competitive disadvantage within its market zone of influence. The subject property is located within proximity to the Adams Morgan, wherein the preponderance of buildings devoted to similar use offer larger indoor and outdoor amenity space. The subject property is disadvantaged from offering similar amenities because both its extraordinary situation or exceptional condition of property and the constraints imposed on compliance with other applicable municipal codes conspire to result in peculiar and practical

difficulties upon the owner if the restrictions of the Zoning Regulations are strictly applied.

**SUBSTANTIAL DETRIMENT TO PUBLIC GOOD AND SUBSTANTIAL
IMPAIRMENT OF INTENT, PURPOSE AND INTEGRITY OF THE ZONE
PLAN**

The applicant seeks to construct a modest addition of approximately 517 ft² of FAR density most of which is devoted to the stair enclosure which serves the purpose the minimum number of egress or exit which will permit the use of the roof top of one-story below as outdoor seating and assembly.

The subject property is surrounded by larger buildings in height and massing as to be dwarfed. The adjoining buildings do not feature lot line wall or at risk openings which the proposed addition will compromise or impact upon adversely, with specific respect to the light and air available to those adjoining properties.

The applicant proposes use that is permitted as a matter of right in its underlying zone district and that is well under its maximum allowed FAR.

The subject property is not subject to any additional parking and could not possibly provide any since it lacks access to a public alley of street at its rear and landlocked

The applicant therefore submits that for all the foregoing reasons, the reliefs sought may be granted without substantial detriment to the public good, and without substantial impairment of the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map

WITNESS

1. Eric Gronning
2. Bill Thomas
- 3.

CONCLUSION

The Applicant submits that the instant application complies with all conditions for the granting of the requested area variances as outlined above and as shall be further documented, and respectfully requests that the application be granted.