

**APPLICATION TO THE BOARD OF ZONING ADJUSTMENT OF THE
DISTRICT OF COLUMBIA**

470-476 K STREET, NW

by

K STREET DEVELOPMENT COMPANY, LLC,

MIDDLEBROOK, INC.,

and

10009 FIELD ROAD, INC.

December 9, 2015

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

**APPLICATION OF
K STREET DEVELOPMENT COMPANY, LLC,
MIDDLEBROOK, INC., and
10009 FIELD ROAD, INC.**

BZA Application No. _____

STATEMENT OF THE APPLICANT

This is an application of K Street Development Company, LLC, Middlebrook, Inc., and 10009 Field Road, Inc. (collectively, the “**Applicant**”), for special exception relief under Title 11, Section 411.11 of the District of Columbia Municipal Regulations (DCMR) (“**Zoning Regulations**”) from the requirements of 11 DCMR Section 411.5 requiring roof structures of uniform heights. The Applicant owns the subject property, which is located at 470-476 K Street, NW (Square 516, Lot 65) (“**Property**”), within the Mount Vernon Triangle Historic District. The Applicant is restoring the existing historic commercial building, reconstructing the previously existing contributing buildings on the lot as an addition, and adding a mechanical penthouse on top of the existing building. This project has been reviewed by the District of Columbia Historic Preservation Office (“**HPO**”). As part of such review, HPO requested that the roof structure height be lowered for the 37 foot, nine (9) inch depth of the penthouse structure, measured from 5th Street, NW. The resulting roof structure contains two heights – one of approximately 11.19 feet and one of approximately 15.71 feet. Therefore, the Applicant is requesting approval of a roof structure that does not conform to the requirements for uniform height under 11 DCMR Section 411.5. The Project will conform to the Zoning Regulations in all other ways.

I.

Nature of Relief Sought

Under Section 411.5 of the Zoning Regulations, a roof structure's enclosing walls must be of uniform height (up to a maximum height of eighteen (18) feet six (6) inches). The Applicant requests special exception relief under Section 411.11 of the Zoning Regulations to construct a roof structure of varying heights – and therefore not in compliance with Section 411.5 – in order to minimize the roof structure's appearance by keeping the majority of the roof structure lower in height (approximately 11.19 feet above the roof) and permitting the elevator penthouse to be a greater height (approximately 15.71 feet above the roof). The Applicant's satisfaction of the standards for granting special exception relief is discussed in detail in Section IV of this statement.

II.

Jurisdiction of the Board

The Board of Zoning Adjustment (the “**Board**”) has jurisdiction to grant the relief requested pursuant to Sections 411.11 and 3104.1 of the Zoning Regulations.

III.

Background

A. Description of the Property and Surrounding Area

The Property is located in the Mount Vernon Triangle area of the District on the south side of K Street, NW, between 4th and 5th Streets, NW. The Property is improved with a building that is contributing to the historic district. The Property has a total land area of approximately 4,683 square feet. It is located in the (“**DD**”)/C-2-C Zone District, which permits office and

mixed-uses as a matter of right, as well as Housing Priority Area A and the Mount Vernon Triangle District of the DD Overlay (“**DD/MVT**”).

Section 770.6 of the Zoning Regulations allows an elevator penthouse and mechanical equipment housing to be a height of eighteen (18) feet six (6) inches above the roof. However, since the Property is within a historic district, care has been taken to minimize the visibility of roof structures to preserve the characteristic low profile of the historic street. At the request of HPO Staff, the Applicant designed a multi-level roof structure to retain compatibility with the Historic District. However, such a two-level roof structure scheme does not comply with Zoning Regulations.

B. History of the Property

The existing historic structure on the Property (“**Existing Structure**”) is three (3) stories and features a white brick façade.

The Property historically operated as feed and flour stores, as well as a saloon. Carriage builder John McDermott and merchant William Rupertus built the buildings in the late 1870s and 1880s. Both merchants intended to capitalize on the business brought by the construction of a large public market, Northern Liberty Market, immediately across the street. The historic structures on the Property have since served a variety of commercial uses.

C. Description of the Proposed Development

The Applicant requests permission to construct a roof structure of varying heights as part of its renovation and redevelopment of the Property. As described above, the Project design has been reviewed by HPO.

The Applicant will restore the existing 3-story historic building on the Property and ensure its structural stability. Adjacent to the historic structure, a 3-story “addition” will be

constructed along K Street, NW on the site which will be a reconstruction of two flat-fronted, previously existing rowhouses that were contributing to the Historic District. All interior space will act as one cohesive building. The restored building will continue to serve commercial uses, with office and ground floor commercial uses. The design for this Project, by architects Hartman-Cox of Washington, D.C., will create a continuous and architecturally harmonious streetwall with neighboring buildings that will be highly compatible and complementary of the Mount Vernon Triangle Historic District.

At its highest point, the Project will be approximately 38 feet, six (6) inches in height under the Zoning Regulations, in compliance with the Zoning Regulations. The project will have an FAR of approximately 2.81 and a lot occupancy of 100%.

D. Area of Necessary Relief

As stated above, the Project requires a special exception under Section 411.11 of the Zoning Regulations from Section 411.5. Under Section 411.5 of the Zoning Regulations, a roof structure must be of uniform height. As indicated on the plans enclosed with this application, the roof structure will have two heights - the elevator penthouse will be approximately 15.71 feet above the roof and the remainder of the roof structure will be approximately 11.19 feet above the roof. Therefore, the difference in height between the two sections of the roof structure will be 4.52 feet. Both heights are substantially less than the maximum eighteen (18) foot six (6) inch height permitted for penthouses by the Zoning Regulations.

The slight revision of the roof structure requirements of the Zoning Regulations allows the Applicant to bring elevators onto the Property to ensure accessibility to the various levels of the project, along with modernizing the systems and equipment of the project, while minimizing the already-low profile of the penthouse along two historic street frontages. Such a roof structure

would minimize the visual impact on the Mount Vernon Triangle Historic District. As discussed below, HPO Staff specifically requested that the roof structure be of non-uniform height in order to minimize the overall visibility of the structure. Further, the roof structure is located as far away from the street-facing facades as possible to minimize its appearance.

IV.

The Application Meets the Requirements for Special Exception Relief under Sections 3104.1 and 411.11 of the Zoning Regulations

Under Section 411.11 of the Zoning Regulations, the Board of Zoning Adjustment is authorized to grant the Property relief from strict compliance with the Zoning Regulations that require certain design characteristics for roof structures. Section 411.11 of the Zoning Regulations states:

Where impracticable because of operating difficulties, size of building lot, or other conditions relating to the building or surrounding area that would tend to make full compliance unduly restrictive, prohibitively costly, or unreasonable, the Board of Zoning Adjustment shall be empowered to approve, as a special exception under § 3104, the location, design, number, and all other aspects of such structure regulated under §§ 411.3 through 411.6, even if such structures do not meet the normal setback requirements of §§ 400.7, 530.4, 630.4, 770.6, 840.3, or 930.3, when applicable, and to approve the material of enclosing construction used if not in accordance with §§ 411.3 and 411.5; provided, that the intent and purpose of this chapter and this title shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely.

As will be discussed below, the Applicant meets the standards set forth in Section 411.11 of the Zoning Regulations.

- A. Strict compliance with the uniform height of roof structure requirements would be impracticable because of operating difficulties, size of building lot, or other conditions relating to the building or surrounding area**

The Property and its surrounding area are affected by several factors that make strict compliance with the roof structure requirements impracticable.

The primary factor that creates the impracticality for strict compliance with Section 411.5 is the existence of a historic resource on the Property, along with the Property's inclusion in the Mount Vernon Triangle Historic District. From a historic preservation standpoint, given that a roof structure is required, the primary concern is to minimize the roof structure's height and mass impact on the Existing Structure and its neighboring historic buildings. In fact, during the course of HPO review, HPO requested that the Applicant design a non-uniform roof structure that would that would minimize the visibility of the structure.

A related but separate issue is the small size of the Property – at approximately 4,683 square feet of lot area – which disallows an ability to place the penthouse structure on a roof location that is far removed from the street frontages, and therefore less visible and possibly more able to sustain a full 15.71 foot penthouse. Similarly the lower height of the historic resource – at approximately 38 feet, six (6) inches – restrains the height of what can be built on the site which further constrains the ability to locate the penthouse structure at a location that is not viewable from public space and adjacent properties. The penthouse is already pushed as far away as possible from the street-facing facades of the building.

Given the above, strict compliance with the uniform height requirement is impracticable. The remainder of the Project will conform in all other manners to the Zoning Regulations and the proposed roof structure is well below the permitted height of eighteen (18) feet six (6) inches.

B. Strict compliance with the uniform height of roof structure requirements would tend to make full compliance unreasonable

Even if strict compliance with Section 411.5 were achievable under the historic preservation approach to the site, requiring strict compliance would nonetheless be unreasonable.

Raising the lower roof wall to match the higher roof wall would run counter to the design approach to the roof structure itself – to minimize the appearance of roof structure height. The Applicant has taken care to minimize the height penthouse as much as possible constructing only the minimum roof structure area required for operation of the building. However, such height increase would have aesthetic impacts on surrounding streets, give the appearance of a much larger roof structure than needed, and run counter to historic preservation principles and HPO's requested design treatment for this element.

In a similar vein, lowering the taller element of the roof structure would disallow and the inclusion of an elevator override, and therefore, accessibility to the roof terrace, and possibly other levels, of the Property would be harmed.

C. The intent and purpose of this chapter and this title shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely

This application represents the occasional conflict between the historic preservation process and the Zoning Regulations. The Zoning Regulations allow a much taller roof structure, but require it to be of one height. In contrast, historic preservation process typically (as here) seeks to minimize roof structure height and mass however it can be accomplished. The Applicant developed the proposed roof structure in order to balance between the two considerations at the Property.

The requested relief would have no negative impact on the intent and purpose of the Zoning Regulations. In fact, the intent of the Zoning Regulation would be furthered by allowing a roof structure of non-uniform heights, as it would lower the building profile.

Further to such point, as a result of having the reduced-profile roof structure allowed by the requested relief, the proposed building is compatible with heights of neighboring buildings and the Historic District itself. As a result, the project's roof structure would be in accordance

with HPO design guidelines for additions that emphasize that additions should be compatible with the height of an existing building and its neighbors.

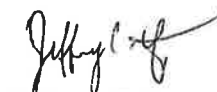
The proposed roof structure also allows for minimized impacts on light and air versus what would be allowed as a matter of right. As such, the Applicant is reducing the already minimal impact of the roof structure on neighboring properties and the streetscape. The Applicant's work to lower the perceived height of the roof structure, and therefore, the building height, certainly serves to meet the spirit of the Zoning Regulations. The varying heights are also removed from the public view to the maximum extent possible since it is located on a portion of the roof that is at the interior of the project, removed as far away from the street frontages as possible.

Importantly, the Applicant's non-uniform height design is likely allowable under pending legislation. Under a pending amendment to the Zoning Regulations as they govern penthouses under Zoning Commission Case No. 14-13, uniform roof walls will no longer be required. Once the pending zoning scheme modifies the uniform roof wall requirement, the non-uniform design element would likely be allowable upon passage. Therefore, it is clear that the proposed relief would have no impact on the intent and purpose of the Zoning Regulations.

V. **Conclusion**

For all of the above reasons, the Applicant respectfully request approval of the subject application.

Respectfully submitted,



Jeffrey C. Utz

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