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HAIR ZONE

5108 MacArthur Blvd. NW
Washington, DC 20016

BURDEN OF PROOF STATEMENT (Docket No. 16747)

The *Hair Zone* is requesting three variances to the Zoning Regulations of the District of Columbia per 11 DCMR 3103.2. This statement explains why the applicant believes these variances are warranted. The two variances dealing with bulk--Rear Yard and Non-conforming Structures Devoted to Conforming Uses--are discussed together. The third variance concerns density as it seeks a waiver of Off-Street Parking Requirements. This statement should be considered in conjunction with the submitted Plat and Architectural Drawings (Sheets 1 & 2), as well as the Statement of Existing and Intended Use.

REAR YARD, Section 774.1
NON-CONFORMING STRUCTURES DEVOTED TO CONFORMING USES, Section 2001.3(c)

The *Hair Zone* property is a party wall structure with an existing 25-foot rear yard. Section 774 requires a minimum 20-foot rear yard, and the proposed addition would eliminate the rear yard completely. The proposed addition would also increase the Floor Area Ratio, but the existing F.A.R. already exceeds the maximum allowed for C-1 Districts. Thus, the addition proposed is to a building that is non-conforming per Section 2001. According to the Mr. Toye Bello of the Office of Zoning, the non-conforming provision is where the variance must be sought rather than the provision for F.A.R. (Section 771). The Architectural Drawings include a "Building Section" (sht. 2) showing the portions of the existing lower levels considered cellar space by the Zoning Regulations, that is, space not counted toward F.A.R. The rest of the lower level space, existing and proposed, count toward F.A.R. The existing F.A.R. is 1.36 with an allowed F.A.R. of 1.0. With the new addition the total F.A.R. will be 2.30, a 69% increase over existing.

BZA
Case No. 16747
Exhibit No. 22

Board of Zoning Adjustment
District of Columbia
CASE NO.16747
EXHIBIT NO.22

The original *Hair Zone* building was probably out of compliance with F.A.R. restrictions the moment the Zoning Regulations were adopted. Because the grade drops considerably from front to back of the property, the original basement was very tall. It was once used as a parking garage but became entirely an unfinished basement when vehicle access was eliminated. The basement was later renovated and converted to two levels, but the maximum F.A.R. allowed had been exceeded by even one level. Indeed, because of the tallness of the space and the manner in which cellar space is calculated on a sloped site, the total F.A.R. for a one-level basement is very close to that of a two-level basement. The use of the basement is irrelevant to F.A.R. because almost no type of space, even storage, is excluded from area calculations for F.A.R.

How did cars access the rear basement level garage of the *Hair Zone* property back when the retail building was first built? The changes made to other properties have eliminated this type of access and have much to do with changing the *Hair Zone* rear yard from useful space to a residual space. Over the years the property owner immediately to the south of *Hair Zone* constructed additions which have eliminated its own rear yard and a documented, insured right of way to the *Hair Zone* rear yard. The most recent addition extended northward, eliminating the rear yard immediately behind the *Hair Zone* rear yard. Zoning regulations generally anticipate mid-block rear yards occurring in pairs and continuing uninterrupted, so that a required 20-foot setback would actually result in a 40-foot swath of space. This condition does not exist behind *Hair Zone*. There is a 33-foot concrete block wall right on the rear property line and a 30 foot brick wall right on the south side property line, both with no openings. An alternate pedestrian only access to the rear of *Hair Zone* has been established by a legal right of way through the rear yard of the property immediately to the north, connecting to a public right of way to MacArthur Blvd.

Whatever additional bulk is created by the *Hair Zone* addition will simply not be visible to passersby due to the existing topography and placement of neighboring structures. The addition will fill in the end of a courtyard not anticipated by the Zoning Regulations. The elimination of the rear yard is of no consequence since two adjacent rear yards have long since been built upon. The addition will not block any windows since neighboring construction is solid masonry. Moreover, the courtyard remaining will continue to provide sunlight and view space to the shop and apartment building neighbors to the north. The increases in allowable F.A.R., both existing and proposed, are attributable to below street grade space. The building will remain one story at street level, and the main floor F.A.R. will be 1.0. Extra floor area on the basement levels would have been considered non-

F.A.R. cellar space if not for the topography. The impact of the addition to the streetscape will be nonexistent, far different from an across-the-street shop (without basement) that recently filled out its allowable F.A.R. with a second floor addition.

OFF-STREET PARKING REQUIREMENTS, Section 2101.1

The proposed addition to *Hair Zone* will bring its total gross floor area to 4,500 square feet. Formulas under Section 2101 of the Zoning Regulations require 5 parking spaces for such a structure in a C-1 District. Unfortunately, vehicle access to the rear of the property has long since been eliminated by construction to the south toward Dana Pl., as discussed above. The building is a street-front, party wall retail structure with no off-street parking opportunities on the other three sides.

Few retail operations in the Palisades neighborhood provide off-street parking unless they are part of a larger development or have rare alley access. Several restaurants in view of *Hair Zone* with little or no off-street parking have far greater occupant loads and peak business hours after residents return home from work. It is expected that the *Hair Zone* and its retail tenant will total only about 5 or 6 customers at any one time, an increase of only about 1 over the present condition. Fortunately, there is ample street parking during normal business hours from 9:00 to 5:00. Most parking is found on the residential side streets and is limited to two hours, very adequate for *Hair Zone* customers. In addition, the *Hair Zone* is seeking the return of parking meters outside its doors on MacArthur Blvd. These meters disappeared without explanation during some nearby construction several years ago. The owner and other service providers in the *Hair Zone* building have dutifully parked for many years several blocks away where parking is unrestricted.

Approving the variances being requested for the *Hair Zone* will result in no negative impact on the community, but denying these variances will result in hardship for both owner and community. There is no question about the desirability of providing more service retail at grade, which is possible only with an addition. The main level of the new addition is planned to house support space and semi-private manicure and pedicure areas, where ample room is required for new equipment. This will free up the original storefront space with its beautiful patterned tin ceiling for more equipment and better service for haircutting customers. The skin care area will continue to benefit from the additional privacy of its first lower level location and will gain much needed extra space in

the new addition. Here, too, there is a concern for accommodating new equipment. Skin care customers will also benefit from daylight, a feature now found only in the bathrooms and storage closet. As for alternatives, renovating the existing lower levels to achieve an equal quantity and quality of space is not possible, and the attempt would be extremely disruptive and expensive. This approach would require digging out the lowest level, where there is known to be an important sewer line to the street, and totally reconstructing the first lower level to improve ceiling height. Infrastructure such as toilets and mechanical equipment would be impacted. A majority of the renovated basement space would be dark, and storage space would be minimal. Of course, the street level would suffer also, as it would probably be sub-divided, losing its original open and spacious character. Without viable alternatives, the *Hair Zone* owner and customers look for BZA approval of the requested variances to bring important improvements to an establishment with a long history of neighborhood service.