BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application of 1464 Harvard LLC
1464 Harvard Street, N.W.

PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

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I. Background

The Subject Property is located at 1464 Harvard Street, N.W. and includes Lot 69 in Square 2668. Square 2668 is bounded on the north by Harvard Street, on the east by 14th Street, on the south by Girard Street, and on the west by 15th Street. The Subject Property is located on the south side of Harvard Street and is bordered on the south by a public alley. The Subject Property consists of approximately 6767 square feet of land area is included in a R-5-B zone district.

The Applicant, 1464 Harvard LLC, is currently developing the Subject Property with a four-story residential building plus cellar that will include fourteen dwelling units. The building is near completion based upon the issuance of building permits by the City. The building's lot occupancy was initially calculated to be sixty percent and determined to comply with the Zoning Regulations. Upon additional review, after construction was substantially underway and the terraces were constructed, the Zoning Administrator concluded that the terraces located below the level of the main floor should be included in the lot occupancy calculation, increasing the lot occupancy above the maximum permitted. While this application responds to that determination, it continues to be the Applicant's belief that as the terraces in question are located below the level of the main floor and maintain the light and ventilation required by code, the building in its current configuration meets the lot occupancy requirements. However, the Applicant hereby seeks approval by the Board of Zoning Adjustment (hereinafter "Board") of variance relief from the lot occupancy requirements applicable in residential zone districts (§403.2).

Pursuant to §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. In said 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 relief. Following herein, as required by the Board's application process, is a summary statement indicating how the Applicant will meet said burden of proof.

BZA
Case No. 17352
Exhibit No. 7

Board of Zoning Adjustment
District of Columbia
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II. Burden of Proof

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.

(A) Exceptional Condition or Situation:

The size and shape of the Subject Property is unique to this vicinity. In addition, while the Subject Property is not historic, the Applicant was urged by the Office of Historic Preservation to maintain portions of the existing façade. This effort somewhat constrained the design of the building, as the existing façade was set back in portions substantially from Harvard Street. The existing building is also seven feet from the sidewalk to the first floor level, which restricted the height of the first floor and terrace in the new construction. Finally, the Applicant proceeded with construction on the Subject Property based on the issuance of building permits by the Department of Consumer and Regulatory Affairs.

(B) Resulting Practical Difficulty:

The Applicant will demonstrate that the strict interpretation of the Zoning Regulations will result in a practical difficulty upon the Applicant. The building footprint has already been established on the Subject Property and construction has advanced significantly. Decreasing the lot occupancy by ten percent would force the Applicant to demolish a large area of already constructed concrete raised terrace slab. The terrace slab also acts as a cover over the garage ramp and parking, so demolition would expose the residents of the new building the existing adjacent building to a view of the garage instead of an attractively landscaped "green roof." Removing the terrace would also increase the glare of reflected light off of the concrete for tenants of both buildings which would then overlook the exposed garage ramp. Furthermore, the terrace acts as a sound barrier between the garage and new and existing construction by blocking noise at the top and side. Adhering to the Zoning Administrator's conclusion of lot occupancy in this case would therefore create an inequitable burden on the Applicant at this point of construction.

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

The Applicant will demonstrate that requested relief can be granted without harm to the public good and without threat to the integrity of the zone plan. With respect to the public good, the residential building will serve to enhance the

community while providing additional dwelling units in the Columbia Heights area. There will be no adverse impact on adjoining properties since the building to the west is set back approximately ten feet from its east lot line and the residential units in the subject building will have all required light and ventilation. The building was designed to maximize light available to itself and to the neighboring building, and to maximize the number of parking spaces by providing more than the required amount. The terrace does not block more light than a seven foot high wall would, which is permitted by zoning.

The zone plan will not be compromised, as the development adheres to all other components of the Zoning Regulations including those that will foster compatibility with surrounding development.