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BEFORE THE BOARD OF ZONING ADJUSTMENT
FOR THE DISTRICT OF COLUMBIA

PRELIMINARY STATEMENT

I. Summary of Requested Relief

Cayre Jemal's Peoples LLC and Jemal's Nanny, LLC (the "Applicants") request that the Board modify Order No. 15413 and Appeal No. 5185 to eliminate the requirement that Square 669 provide the parking spaces required for the use of the occupants of 60 Florida Avenue, N.E. (Lot 805, Square 3518). In order to accomplish this, the Applicants also request that the Board confirm that the covenant required by Appeal No. 5185 can be extinguished. Finally, the Applicants seek a variance from §2102.1 to reduce the parking requirement for 60 Florida Avenue, N.E.

II. Background

In 1958, the Board issued Appeal No. 5185, a copy of which is attached hereto at Tab 1, which authorized the provision of off-street parking spaces required for 60 Florida Avenue, N.E. (Lot 805, Square 3518) to be located at 54 – 64 O Street, N.E. (Lots 4, 800, and part of 801, Square 669). As shown on the plats attached hereto at Tab 2, Lots 4, 800 and part of 801 are currently a part of Lot 854 in Square 669. Pursuant to a condition imposed in Appeal No. 5185, a covenant was recorded in the land records of the District of Columbia which provides that Lots 4, 800, and part of 801 in Square 669 must provide 49 parking spaces for the use and convenience of the occupiers and guests of the building on Lot 805 in Square 3518. A copy of the covenant is attached hereto at Tab 3. Pursuant to Order No. 15413, a copy of which is attached hereto at Tab 4, the Board granted an application in 1991 to reduce the number of required parking spaces to 37 spaces, and also granted the flexibility to relocate the parking spaces within Square 669 or within any future structure on the square.

BZA
Case No. 17359
Exhibit No. 6

Board of Zoning Adjustment
District of Columbia
CASE NO. 17359
EXHIBIT NO. 6

III. Description of the Modification and Rationale for the Request

Pursuant to §2116.5 of the Zoning Regulations, the Board may authorize the placement of off-street parking spaces on a lot other than the lot upon which a building or structure is located. The Board previously found that the provision of parking spaces within Square 669 to serve the uses located at 60 Florida Avenue, N.E. is consistent with the requirements of §2116.5 of the Zoning Regulations. However, due to changed circumstances, the continued location of the parking spaces on Square 669 is no longer necessary.

The location of the parking spaces within Square 669 no longer results in a more efficient use of land and no longer furnishes reasonable and convenient parking facilities for the occupants of 60 Florida Avenue, N.E. 60 Florida Avenue, N.E. has undergone a number of changed uses that currently render it inefficient to locate parking on Square 669. When Appeal No. 5185 was granted, 60 Florida Avenue, N.E. was used as a warehouse, and the property was subsequently being leased to the District of Columbia Department of Human Services when Order No. 15413 was issued. 60 Florida Avenue, N.E. is currently proposed to be extension office space for the XM Radio headquarters on the ground floor with accessory computer and other uses above.

There is currently a very low demand for the parking in Square 669 by the employees and visitors to 60 Florida Avenue, N.E. Based upon observations by the Applicants, the majority of employees and visitors to 60 Florida Avenue, N.E. use public transportation since several Metrobus routes provide convenient service along North Capitol Street and New York Avenue. The Applicants have observed that demand for parking on Square 669 by employees and visitors of 60 Florida Avenue, N.E. has drastically decreased since the opening of the new metro rail station at New York Avenue.

V. Parking Variance

In order to obtain approval of the requested variance, the Applicants must show that: 1) the subject property suffers from an extraordinary or exceptional condition; 2) strict application of the Zoning Regulations will result in peculiar and exceptional practical difficulty to the Applicant; and 3) relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

As indicated in Appeal No. 5185, 60 Florida Avenue, N.E. is required to provide 49 parking spaces. Pursuant to Order No. 15413, this requirement was reduced to 37 parking spaces. The Applicant seeks approval to reduce the number of parking spaces provided for 60 Florida Avenue, N.E. to zero.

A. Extraordinary or Exceptional Condition

The Board has previously found that 60 Florida Avenue, N.E. suffers from an extraordinary and exceptional condition which renders it impossible to provide the required parking on the site. The building at 60 Florida Avenue, N.E. was constructed prior to enactment of the zoning regulations requiring parking for the building. Thus, as indicated in Appeal No. 5195, parking for the site was only required as a result of an addition made to the existing building in 1958. Moreover, the Board also found in Appeal No. 5195 that the applicant was "unable to provide parking, as required by the regulations, on the lot with the existing building due to the size of the lot which is completely covered with the building." The Board later found in Order 15413 that "it is impossible to provide *any* of the 49 required parking spaces on the 60 Florida Avenue site because the building covers the entire lot." (emphasis added). This

extraordinary and exceptional condition still exists since the existing structure still covers the entire lot.

B. Practical Difficulty

Strict application of the Zoning Regulations would cause a practical difficulty to the Applicant. In order to comply with the current zoning regulations, the Applicant would have to demolish all or a portion of the existing building to provide parking on the site. Moreover, the continued provision of the required parking spaces within Square 669 results in a practical difficulty since the area currently being used to provide the parking spaces is being sold for development.

C. No Substantial Detriment to the Public Good

The requested relief can be granted without harming the public good or impairing the purpose of Section 2101.1. There is currently a very low demand for the parking in Square 669 by the employees and visitors to 60 Florida Avenue, N.E. Indeed, the majority of employees and visitors to 60 Florida Avenue, N.E. use public transportation since the new metro rail station at New York Avenue and several Metrobus routes provide convenient service along North Capitol Street and New York Avenue to the site.

VI. Government and Community Response

The Applicant intends to work with the Office of Planning and Advisory Neighborhood Commission 5C to obtain their support for the modification and requested variance relief.

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