

April 20, 2016

Marnique Y. Heath
Chairperson
Board of Zoning Adjustment
441 4th Street NW
Suite 210S
Washington DC 20001

Re: BZA No. 19206. 1300 -1302 Pennsylvania Avenue SE. Supplemental Statement

In the March 15th public hearing of the referenced case or application above, the Board set limited further hearing the FAR component of the relief sought for consideration, specifically to allow the applicant to further brief or augment how the unique circumstances of the subject property result is either practical difficulties or hardship or both upon the owner of the subject property if the strict provision which limits additional FAR to 0.5 were applied.

Further, Office of Planning (OP) did not recommend approval of the requested FAR because OP did not find that the extraordinary or exceptional situation or condition of property directly results in practical difficulties upon the owner of the property.

The applicant now contends that the extraordinary or exceptional situation or condition of the property results both in practical difficulties and hardship upon the owner as expounded upon below.

1. Practical Difficulties

The applicant refers the Board to Exhibit No 39, which illustrates the practical difficulties resulting from the strict application of the zoning regulations with respect to FAR.

Notwithstanding that the subject property has an additional 0.5 FAR of residential FAR, the extraordinary or exceptional situation or condition of property consigns the proposal to building FAR that is otherwise a right to review by the BZA.

The applicant notes that in order for the owner to construct the additional 0.5, each of the two three (3) dwelling unit options is required to set back a minimum distance of fifteen feet (15 ft.) opposite 13th Street or Pennsylvania Avenue respectively.

Exhibit No. 39 illustrates that in each of the two foregoing options, the location of the floor frustrates alignment with the location of existing building stair core, which will precipitate the prohibitive cost of relocating the entire building core to accommodate the two 3-unit options available to the owner under the 0.5 FAR attributable.

The reason for the un-alignment of the building core is as a result of the requirement to comply with the required 15 feet of rear yard opposite Pennsylvania Avenue or 13th Street, streets the subject property abut.

The relocation of the building core or stair will alter the interior layout of the existing two floors, but more poignantly adversely affect or impact the suitability of the commercial space for a future tenant space layout, as graphically illustrated by Exhibit No. 39

The floor layout resulting from this change in building core location dissects the commercial space in a way that potentially creates future tenant layout difficulties that impacts the income stream to service the debt on the subject property.

2. Hardship

The applicant refers the Board to Exhibits 41 and 42, which offer a comparative Debt Service Coverage Ratio (DSCR) analysis or models between a three-unit option to which the strict application of the zoning regulations with respect to FAR constrains the subject property, and the four-unit option.

Bruce J. Wilmarth (Bio attached as Exhibit No. 40), whom the applicant proposes to qualify as an expert witness in Construction and Real Estate Finance will testify that the three-unit option, including ground floor retail space to which the strict application of the zoning regulations with respect to FAR results in negative annual cash flow to the owner. In other words, the owner cannot service the debt on the property let alone rely on this option in order to have an expectation of reasonable return on investment.

The applicant contends that the absence of an expectation of a reasonable return on investment constituting a hardship upon an owner as a burden as a result of the strict application of a provision of the zoning regulations is a settled matter.

The applicant contends also that it is a settled matter that where there is proof of a hardship upon an owner, a practical difficulty exists.

**Substantial Detriment to Public Good and Substantial Impairment of Intent.
Purpose and Integrity of the Zone Plan.**

Exhibit 38 is a comparative rendering of the outcome of the three-unit option versus the four-unit option subject to FAR relief in relation to the architectural fabric of the neighborhood.

The applicant by reference incorporates the third prong of the Burden of Proof Statement, but further adds that the relief sought is not inconsistent with the strong support of this application as stated in the second paragraph of the resolution of support of the affected ANC, ANC 6B verbatim and to wit:

“ANC 6B supports the scope and design of the project, noting that the by right FAR for a 3rd story addition would not be in keeping with the visual fabric of the neighborhood, not support citywide goals for providing additional housing”

There is no opposition to the proposed project from the community at large, nor any from the property owners within proximity of the subject property.

For all the foregoing reasons, the applicant respectfully request that the Board grant all the relief requested, including the request for a de minis increase of residential FAR by 0.5.