

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OFFICE OF THE ZONING ADMINISTRATOR**



March 26, 2012

Norman M. Glasgow, Jr.
Steven E. Sher
Director of Zoning and Land Use Services
Holland & Knight LLP
2099 Pennsylvania Avenue, N.W. - Suite 100
Washington, DC 20006

Re: 1238 Wisconsin Avenue, N.W.

Gentlemen:

This is to follow-up on our discussions on Wednesday, February 1, 2012, and Friday, February 24, 2012, concerning the above-referenced property (Square 1218, Lot 1028) located on the northwest corner of the intersection of Prospect Street and Wisconsin Avenue, N.W., wrapping around but not including lot 800 right at the corner. The property is improved with a building that is in a historic district and has sections which are one story, three stories and four stories. The property is zoned C-2-A.

In 1981, in Case No. 13473, the Board of Zoning Adjustment (BZA) granted a variance from the floor area ratio requirements of the C-2-A District to allow an addition to the building of 1,928 square feet. As a result of the variance, the total gross floor area (GFA) of the building was approved to be 20,049.40 square feet and the GFA for office and retail uses was approved to be 17,821.38 square feet (Order No. 13473, dated July 27, 1981, Finding of Fact No. 7). That Finding further stated that the overall GFA permitted was 22,070 square feet, which is 2.5 FAR times the lot area of 8,828 square feet.

You advised that the owner of the building wishes to make a small addition to the second floor of the building for retail use and to change the uses within the existing space on the third floor to substitute residential uses for office uses. As a result of the addition and the reconfiguration of the uses, there would be no more than the approved nonresidential GFA of 17,821.38 square feet and the total GFA in the building would be no more than the maximum permitted of 22,070 square feet.

If this building was a nonconforming structure, as provided for in §2001.3, an addition could be made provided that (a) the structure conforms to percentage of lot occupancy requirements; and (b) the addition itself conforms to use and structure requirements and shall neither increase or extend any existing, nonconforming aspect of the structure; nor create any new nonconformity of structure and addition combined. In a C-2-A District, the maximum lot occupancy of 60% applies only to the portion of a building devoted to residential use. The

1100 4th Street, S.W., 3rd Floor, Washington, DC 20024
Phone: (202) 442-4576 Fax: (202) 442-4871

Board of Zoning Adjustment
District of Columbia
CASE NO.20108
EXHIBIT NO.9B

March 26, 2012

Page 2

residential uses are located at the 3rd and 4th floors; at the 3rd floor level, the lot occupancy is approximately 34%. The building therefore complies with the lot occupancy requirements.

As noted above, the addition of floor area and the rearrangement of uses in the building would result in a building which would comply with both the overall maximum GFA permitted under the C-2-A District and the maximum office and retail GFA permitted by the BZA Order. It would be consistent with the overall thrust of the Zoning Regulations to treat the subject building, the parameters of which were specifically approved by the BZA, in an equivalent manner to a building which met the applicable requirements at the time the building was constructed and which thereafter became nonconforming.

Based on the facts and reasoning set forth above, I conclude that the proposed addition on the second floor and rearrangement of uses on the third floor would comply with the Zoning Regulations, as long as the overall GFA does not exceed 22,070 square feet and the office and retail GFA does not exceed 17,821.38 square feet.

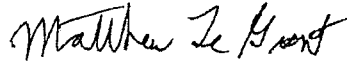
The BZA also granted relief from the parking requirements in Order No. 13743. Since that time, the Regulations have been changed, specifically to add §2120, dealing with parking requirements applicable to historic resources. Specifically, §2120.3 provides that:

- 2120.3 A historic resource and any additions thereto are exempt from the requirement of § 2100.4 to provide additional parking as a result of a change of use and from the requirement of § 2100.6 to provide additional parking as a result of an increase of intensity of use, except that parking shall be required for any addition where:
- (a) The gross floor area of the historic resource is being increased by 50% or more, and
 - (b) The parking requirement attributable to the increase in gross floor area is at least four (4) spaces.

The exceptions to the rule, paragraphs (a) and (b), are written in the conjunctive, meaning that a project has to meet both criteria for parking to be required. The addition to the building will contain approximately 2,000 square feet of GFA. The existing building contains approximately 20,000 square feet of GFA. The addition therefore only increases the amount of GFA by approximately 10%. Accordingly, the property is exempt from the requirement to provide additional parking.

Please let me know if I may be of further assistance.

Sincerely,



Matthew Le Grant
Zoning Administrator