

April 26, 2021

Re: Burden of Proof –Variance Review Standards Subtitle X 1002

- a) *1002.1 (a) An applicant for an area variance must prove that, as a result of the attributes of a specific piece of property described in Subtitle X 1000.1, the strict application of a zoning regulation would result in peculiar and exceptional practical difficulties to the owner of property;*

The existing New Hampshire Ave. Chiller Plant site was the site of a gas station that was known by the DC government agencies for leaking gasoline product into the subsurface when WMATA began construction of the Chiller Plant. Several years ago, the Department of Energy and Environment (DOEE) directed WMATA to conduct quarterly sampling of groundwater below the New Hampshire Ave. Chiller Plant site to characterize the groundwater due to the leaking gasoline. The quarterly groundwater sampling detected fairly high concentrations of volatile organic compounds (VOCs) in the groundwater. After the samples were taken, the DOEE directed WMATA to begin to clean up the groundwater beneath the site and the VOC vapors in the subsurface soils. Based on the directive by DOEE, WMATA designed a dual-phase groundwater and VOC vapor remediation system that will remove contaminated groundwater and vapors from beneath the site and treat the contamination onsite to remove the VOCs from the water and vapor. Unfortunately, the proposed equipment for this remediation system cannot fit within the existing footprint of the Chiller plant; therefore, an addition was designed to house the new equipment. A Minor Flexibility under 11 DCMR Section A-304.3 was applied for to meet the required building square footage sized to accommodate the remediation equipment. The Minor Flexibility was granted by Mr. Matthew LeGrant (12/01/2017) for a 42% Lot Occupancy.

As a result of the existing lot size, shape and areas occupied by the public sidewalk, the design cannot meet the minimum required pervious surface stated under 11DCMR E-204.1 due to the required building footprint to accommodate the remediation system equipment and the extensive site work for the remediation system which includes underground trenchwork and multiple monitoring wells. During design, the replacement of the proposed concrete driveway with a pervious paver system was investigated; however, to encapsulate the VOC vapors discharging from the site, the concrete driveway was more sustainable than the pervious pavers. If not granted an area variance, then conforming to the minimum pervious surface requirement would result in exceptional practical difficulties and undue hardship to WMATA.