



**MEMORANDUM**

**TO:** District of Columbia Board of Zoning Adjustment

**FROM:** Jennifer Steingasser, Deputy Director Development Review & Historic Preservation

**DATE:** June 7, 2011

**SUBJECT:** BZA Case No.18219, 705 6<sup>th</sup> Street, N.W. (Square 486 – Lot 4)

**I. SUMMARY OF APPLICATION AND OP RECOMMENDATION**

The applicant wishes to construct a two story retail structure on Square 486, Lot 4 – a particularly small vacant lot in Downtown.

The Office of Planning (OP) recommends the Board **approve** the requested variance relief from:

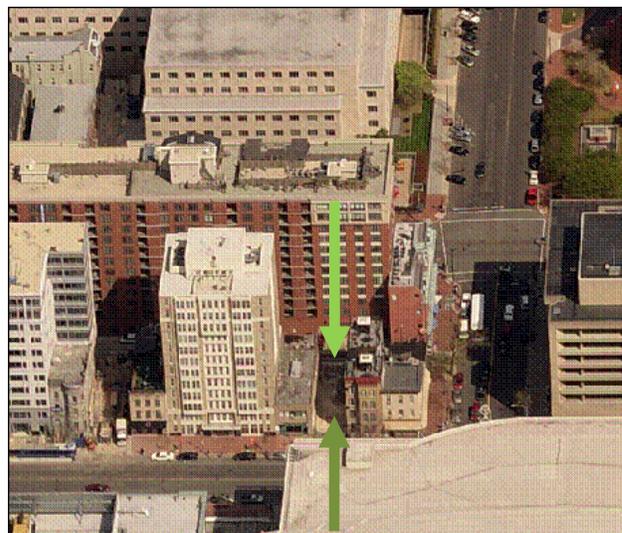
<b>§ 774.1, rear yard requirements</b>	15 feet required, 0 feet proposed
<b>§ 2101.1, off-street parking requirements</b>	2 required, 0 proposed
<b>§1706.4, Downtown Development District residential requirements</b>	4.5 minimum residential FAR required, 0 FAR proposed.

OP also concurs with the District Department of Transportation’s (DDOT’s) recommendation that all loading be provided from the alley at the rear of the site.

**II. AREA AND SITE DESCRIPTION**



**Fig. 1. Site Location**



**Fig. 2. Site Perspective**



<b>Table 1: Site and Area Information</b> (using revised measurement-based information provided by applicant on May 31, 2011)			
<b>Applicant:</b>	Jemal's Bartley, LLC	<b>Address:</b>	705 6 <sup>th</sup> Street, NW
<b>Legal Description</b>	Square 486 – Lots 4 and 5	<b>Ward:</b>	6
<b>Lot Characteristics:</b>	2,040.1 SF (24.16'w x 84.4'd). Small, Flat, rectangular. 16.' wide alley at rear	<b>Zoning:</b>	DD/C-2-C. Chinatown Sub-area. Housing Priority Area B.
<b>Existing Development:</b>	Parking lot	<b>Historic District</b>	none
<b>Adjacent Properties:</b>	<u>North</u> : 2 story commercial structure, for lease; <u>South</u> : 4-story walk-up apartment; <u>West</u> , across 6th St, Verizon Center, <u>East</u> , across alley: Avalon Bay residential		
<b>Surrounding Neighborhood:</b>	Mixed office, residential, government, entertainment & cultural. New buildings are high-density; older buildings are moderate to high density		

### III. ZONING HISTORY, REQUIREMENTS and REQUESTED RELIEF

The Board previously approved relief for this site in combination with similarly sized Lot 5 to the North in Order 17983. In the previous case the applicant Board approved relief from parking and rear yard requirements and, on the recommendation of the District Department of Transportation (DDOT), stipulated that all loading should be restricted to the rear alley. The relief for Square 484, Lots 4 and 6 expires October 28, 2011.

The current Case 18219 involves only Lot 4, the southern half of the site given relief in BZA Order 17983. With the exception of Application 18219's requested relief from the DD housing requirements, Cases 18219 and 17983 are very similar in their requested relief, demonstrations of exceptional conditions and how the variance tests are met.

<b>Table 2. Zoning Requirements, Requested Relief and OP Recommendations (DD C-2-C, HPA B)</b> (using revised measurement-based information provided by applicant on May 31, 2011)				
	<b>M-O-R</b>	<b>Proposed</b>	<b>Relief</b>	<b>Recommendation</b>
<b>Lot Area (sf)</b>	No minimum	2,040 SF	N/A	n/a
<b>Lot Width (ft.)</b>	None	24.17'	n/a	n/a
<b>Lot Occupancy</b>	100%	100%	conforms	n/a
<b>FAR</b>				
§ 774.1	8.0 total FAR permitted;	2.44 total	Complies	n/a
§ 1706.4	<i>4.5 residential FAR required in Housing Priority Area B -- on site, or off site through Combined Lot Development (CLD) or combination with off-site affordable housing.</i>	<i>0.0 residential</i>	<i>4.5 FAR residential relief – 100% of § 1706.4's residential requirement.</i>	<b>Approve</b>
§1705.3	Minimum 0.5 FAR ground floor preferred Chinatown retail uses required	<i>1.0 FAR ground floor retail</i>	Complies	n/a

<b>Table 2. Zoning Requirements, Requested Relief and OP Recommendations (DD C-2-C, HPA B)</b> (using revised measurement-based information provided by applicant on May 31, 2011)				
	<b>M-O-R</b>	<b>Proposed</b>	<b>Relief</b>	<b>Recommendation</b>
<b>GFA (sf)</b>	17,000	4,250	n/a	n/a
<b>Height §</b>	120'	39'	conforms	n/a
<b>Rear Yard §774.1</b>	15' from alley center for first 20'; 15' from property line above 20'	8' for first 20' of height; 0' thereafter	15' 100%	<b>Approve</b>
<b>Side Yard</b>	n/a	0'	conforms	n/a
<b>Parking Spaces §2101.1</b>	2	0	2 100%	<b>Approve</b>
<b>Loading</b>	0	0	n/a	<b>Restrict loading to rear alley</b>
<b>Roof Structure</b>	1:1 setback	Roof structure reclassified as part of 3 <sup>rd</sup> floor, consistent with ZA interpretation in Case 17983. Does not require setback.	conforms	n/a

**IV. OFFICE OF PLANNING ANALYSIS**

*The applicant has demonstrated that the property is affected by a unique or exceptional condition*

- At 2,040 square feet, the site is unusually small and narrow for a development lot in the C-2-C zone of the DD. In addition to the lots cited by the applicant in Attachment A, the applicant’s site is one-third the size of the 6,451 square foot DD/C-2-C lot for which the Board granted parking, loading, lot occupancy and non-conforming structure relief in Order No. 17723. It is one-half the size and width of the site for which the BZA granted rear yard and parking relief for 705-707 6th Street in Order 17983, which provided the previous BZA relief for this site and the adjacent lot to the north.

*The applicant has demonstrated that because of the unique or exceptional condition the strict application of the zoning regulation would pose exceptional practical difficulties*

- **Rear Yard.** The applicant has demonstrated the practical difficulty arising from the exceptional conditions. Despite the zone permitting 100% lot occupancy, without relief the first floor of the proposed addition would have to be removed 7 feet from the rear property line; and the second floor would have to be set-back 15 feet from the line. The fire stairs from the second stair would have to be placed 8-feet back from the first floor’s rear wall, resulting in another approximately 75 SF of awkwardly located space. The net result would be an approximately 7 % loss<sup>1</sup> of square footage in what would already be a small building in downtown. The leasable space would become irregularly shaped, rather than the rectangular floor plan that would be enabled by the requested relief.

<sup>1</sup> 175 GSF first floor; 325 GSF second floor; 75 GSF compromised behind 1<sup>st</sup> floor first stair enclosure.

- *Parking:* The applicant has demonstrated that the exceptionally small size of the site leads to a practical difficulty for providing parking. Two parking spaces would occupy 342 – 400 square feet --approximately 18.6% of the ground floor. If rear yard relief were granted and parking relief were not, the lot width would be at least two feet shy of the linear footage needed to accommodate two parking spaces, a fire stair, trash storage and two load-bearing walls. The provision of the required parking would reduce the first ground floor plate by approximately 25% and make tenuous the economics of the proposed construction.
- *DD residential FAR:* The applicant has demonstrated that a practical difficulty would arise in achieving a reasonable rate of return on the small site from providing the housing required by § 1704.1, in addition to the 0.5 FAR of preferred retail required by § 1705.3 for Chinatown.

To build any commercial square footage on the site, the applicant must first provide for 4.5 residential FAR either on-site, or account for it elsewhere within Housing Priority Area B through a Combined Lot Development (CLD). Up to 1.35 of the 4.5 residential FAR may be constructed off-site if approved by the Department of Housing and Community Development. The requirement places the applicant in the position of being responsible for providing an amount of housing that is 1.8 times larger than the entire building the applicant proposes to construct.

Providing both the required retail and the required housing would require separate front entrances, an additional fire stair and approximately 3 parking spaces either underground or on the first floor. The effective minimum FAR for providing the retail and the housing uses would be 5.0 – a density that could not readily be achieved with the stick built construction the applicant plans to use on the 24.16' x 84.42' lot.

On pages 11 – 12 of the pre-hearing statement the applicant provides construction cost figures, lease terms, Combined Lot Development prices and mixed-use building code requirements. The applicant demonstrates that on such a small lot the LLC would lose money if it provided the required housing on site, and would receive an exceptionally low 2.4% rate of return on investment if it fulfilled the housing requirements through Combined Lot Development.

***The applicant has demonstrated that there would be no substantial harm to the public good if the requested relief were granted.***

- *Rear Yard:* The applicant has demonstrated that providing the requested rear yard relief would generate no significant impacts on the public good or the intent of the zoning regulations. Granting the relief would effectively require the applicant to enclose within the building the sight and possible odors of the trash storage area. This would be of benefit to nearby residential users. There would likely be little to no impact on the usability of the approximately 16' alley at the rear of the structure. The alley's width, the three story height of the proposed building, and the nature of the applicant's proposed restaurant use would combine to impose little intrusion on the privacy or use of the Avalon bay property across the rear alley from the applicant's site.
- *Parking:* The applicant has demonstrated that providing the requested parking relief would generate no significant impact on the public good. The applicant's property is less than 800 feet from two Red Line and one Green Line Metrorail stations, one block from Circulator bus service on 7<sup>th</sup> Street, and is less than one block from the frequent bus service on 7<sup>th</sup> Street and H Street. There are several thousand commercial daytime parking spaces within three blocks of the applicant's site.

- *DD Residential FAR:* The site has had a protracted use as a surface parking lot. The pre-leased restaurant development the applicant would build if the relief were granted would be more beneficial to the public and to the Chinatown/Penn Quarter neighborhood than continued underutilization of the land as a parking lot. It would fill in an important gap in the streetscape and would generate the type of pedestrian-oriented activity that would make residential uses more attractive on other DD sites.

***The applicant has demonstrated that granting the relief would not have a substantial negative impact on the intent of the zoning regulations***

- *Rear Yard:* The Zoning Regulations already permit 100% lot occupancy for commercial structures in commercial use in the DD/C-2-C zone. Relief from the rear yard requirements would enable the building to achieve full lot occupancy and would have no substantial impact on the zoning regulations.
- *Parking:* Foregoing parking at a location so well-served by public transit would not be inconsistent with the Districts transit oriented development. Granting the relief would cause no significant harm to the existing regulations.

*DD Residential FAR:* The downtown housing regulations were enacted to ensure that as central Washington grows, it becomes a genuine mixed use neighborhood of offices, residences, services, entertainment and culture. The regulations, combined with tax policy and the marketplace, have been highly effective. Increasing housing downtown and throughout the District remains a basic objective District land use and fiscal policy. However, as noted above, the applicant has demonstrated the infeasibility of providing the required 4.5 FAR of housing on the 24.17-foot by 84.42-foot site, particularly when § 1705.3 requires that the ground floor contain 0.5 FAR of preferred retail use.

It is only for such an exceptionally small downtown site that OP would consider recommending approval of a variance from the DD housing requirements. If the applicant were proposing construction on a larger site, or proposing a project of a size more closely aligned with the level of FAR envisioned by the DD/C-2-C Housing Priority Area B residential requirements, OP would be very unlikely to support the requested relief. However, the site is exceptionally small and poses practical difficulties for the construction of 0.5 FAR ground floor retail plus 4.5 FAR of housing. Granting the requested relief would enable the site to be put to a productive use. When measured against the likelihood of the site's continued underutilization as a parking lot if relief were not granted, granting the requested relief would not pose a substantial harm to the DD zoning regulations and would further a basic objective of the Chinatown sub-district, to expand retail opportunities.

## **V. COMMENTS OF OTHER DISTRICT AGENCIES**

The District Department of Transportation (DDOT), in conversations with OP, has reaffirmed the positions it took concerning this site in Case 17983. Although zoning does not require on-site loading, DDOT would prefer that all of the proposed building's loading to be from the rear alley, rather than from 6th Street. DDOT stressed that while a building of the proposed size should have limited loading needs, the 700 block of 6<sup>th</sup> Street is already burdened by accepting loading for both the Verizon Center and Gallery Place, and that the alley appears wide enough to accommodate the loading function for the proposed building. DDOT has further stated that there would be no

significant impact from the granting of parking relief. DDOT noted the ready availability of commercial parking in the area.

There were no other agency comments.

## **VI. COMMUNITY COMMENTS**

ANC 6C voted to support this application at a regularly scheduled and noticed meeting on April 13, 2011.

JS/  
S Cochran, Project manager