



MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Arthur Jackson, Case Manager
Joel Lawson, Associate Director Development Review

DATE: May 1, 2012

SUBJECT: **BZA Case 18344** – Request for variance and special exception relief for a property located at 33 New York Avenue NE

I. SUMMARY RECOMMENDATION

The Office of Planning (OP) **recommends approval** of variance relief requested from the minimum parking required under § 2101.1 (54 vehicle spaces required, 0 spaces proposed) and special exception relief in accordance with § 411.11 from the requirements of § 411.05 (to allow roof structure walls of varying heights) and § 770.6 (b) (a maximum exterior wall setback of 18 feet 6 inches is required, as little as 0 feet is proposed), for a new hotel proposed at 33 New York Avenue NE.

II. AREA AND SITE DESCRIPTION

Address:	33 New York Avenue NE
Legal Description:	Square 671 Lot 0671
Ward:	6C
Lot Characteristics:	This irregularly shaped through-lot covers 10,280 square feet (0.24 acre) with frontages along New York Avenue and N Street NE. Curb cuts along both frontages allow vehicular access through the site and there is no alley access.
Existing Development:	A paved parking area and a two-storage structure that was most recently occupied by a night club use (refer to Figure 1).
Zoning:	C-3-C – allows hotel uses as a matter of right.
Historic District:	None
TDR Receiving Zone:	North Capitol ¹
Adjacent Properties:	A surface parking area to the north across New York Avenue; a commercial office building to the south across N Street; multi-story industrial warehouses on the neighboring properties to the east; and a three-story building occupied by a non-profit organization to the west.
Surrounding Neighborhood Character:	A mixture of surface parking areas, moderate density warehouse and office uses (again refer to Figure 1).

¹ the North Capitol transferable development rights receiving (TDR) zone includes Square 671 properties within C-3-C districts per § 1709.17



III. APPLICATION IN BRIEF

Applicant:	33 New York Avenue LP, the owner of record
Proposal:	Contract purchaser JBG/New York Avenue Hotel LLC plans to develop a 14-story hotel with a penthouse to a height of 130 feet with a total of 192 rooms and a floor area of 102,745 square feet, equal to a floor area ratio (FAR) of 9.99.
Relief Sought:	<p>In the original application, variance relief was requested from § 2101.1 to reduce the number of required parking spaces; from § 2115.2 to increase the number of compact spaces that would count toward required spaces; and from the § 2115.4 requirement to place compact car spaces in groups of at least five contiguous spaces. Special exception relief was also requested from § 411.5 to allow roof structure enclosure walls of different height and § 770.6 (b) because a 1:1 setback would not be maintained from all the exterior building walls.</p> <p>In the Pre-hearing Statement dated April 24, 2012, the variance request was changed to the elimination of the entire parking requirement. Relief from §§ 2115.2 and 2115.4 was no longer requested.</p>

IV. ZONING REQUIREMENTS

C-3-C District	Regulation	Existing ²	Proposed ²	Relief Required?
Height (ft.) § 770	130 feet	Unknown	130 ft., 14 stories	No
Floor Area Ratio § 771.4 (a)	10.0	Unknown	9.99	No
Lot Occupancy § 772	100% max.	63%	98.5%	No
Rear Yard (ft.) § 774	2 ½ in./vertical foot, not less than 12 feet	0 feet	38.5 feet (27.5 feet required)	No
Side Yard (ft.) § 775	0 feet	48.8 feet	0 feet	No
Open Court § 776.1	3 in./vertical foot, not less than 12 feet	N.A.	35 feet (32 feet required)	No
Roof Structures § 411.5	enclosing walls are of = height	N.A.	enclosing wall heights ≠	Yes
Roof Structures § 770.6 (b)	setback from exterior wall = structure height	N.A.	exterior wall setback ≠ structure height	Yes
Parking § 2101.1	1 space/4 sleeping rooms + 1 space/300 ft. of largest function room	Unknown	0 spaces (54 required)	Yes
Loading § 2201.1	1 berth @ 30 ft. deep 1 berth @ 20 ft. deep 1 dock @ 100 s.f.	Unknown	SAME	No

Based on the zoning computation provided with the application, the proposed hotel will generally conform to the current Zoning Regulations. Relief is required to reduce the project parking

² Information provided by applicant.

requirement from 56 spaces to 0; because walls enclosing the roof structure would not be of equal height; and because the roof structure would not maintain the required 1:1 setback.

V. OFFICE OF PLANNING ANALYSIS

Consistency with § 3101.1:

- Unique and exceptional conditions resulting in a practical difficulty:

The application identifies several unique characteristics and circumstances associated with the subject property. The property has a unique shape and relatively small size compared to other properties in the square and the vicinity. After the application was filed, the applicant was notified by the District Department of Transportation (DDOT) in a letter dated February 16,

Figure 1



2012, that the agency would not support the proposed driveway entrance from New York Avenue to provide vehicular access to the proposed below grade parking facilities. DDOT expressed reservations about the proposal to locate some required parking spaces in vault space under the avenue. The project architect was then concerned about now adding garage entrances along the narrower N Street frontage already occupied by the building loading facilities and the primary pedestrian entrance to the hotel.

The combination of these constraints, and the fact that any below-grade parking facility on this irregular site would primarily consist of the ramps needed to access it, constitute a practical difficulty to providing the parking required on-site.

- Detriment to the public good:

Traffic consultants Wells + Associates looked at the implications of eliminating parking on this site. The consultant's March 23, 2012 memorandum pointed out that:

- the site is in close proximity to six Washington Metropolitan Area Transit Authority (WMATA) transit routes that travel along North Capitol Street and Florida Avenue NE;
- approximately 1,300 feet away is the WMATA New York Avenue-Florida Avenue-Gallaudet University station that serves the Red rail line;
- neighborhood Zipcar and Capital Bikeshare facilities already exist; and
- valet service would be provided at nearby parking garages for guests that do drive.

The proximity of these alternative transportation modes would reduce the need for employees and guests to use personal transportation to arrive at this site. Submitted hotel plans include a bicycle storage area for employees and guests, and a lay-by is proposed along N Street would make it easier for taxicabs to drop off guests. New employees would also be offered a SmartTrip card or one year membership in Capital Bikeshares. What the submitted plans do *not* include are large meeting

facilities, entertainment spaces or dining and drinking facilities designed to serve the general public, amenities that would be expected to generate additional visitor traffic and parking demand.

The consultants determined that the majority of trips to the site would be by non-auto modes, and that 20 garage and surface parking facilities in the vicinity are sufficient to accommodate the remaining limited number of vehicle trips. As a result, they concluded that the requested parking variance would not have an adverse impact on the traffic operations of the surrounding roadway network.

During several meetings with DDOT on this application, the agency also did not express concern that elimination of on-site parking in this case would negatively impact the available parking resources or the traffic congestion in this area. However, the agency was less supportive of the proposed N Street lay-by (refer to the Agency Comments section below).

Figure 2



- Detriment to the intent, purpose and integrity of the zoning regulations:

As noted above, this development proposal would generally be consistent with the zoning regulations. The relief requested from the parking requirement is directly related to site constraints and circumstances that create a practical difficulty. The proximity of public transit and the lack of facilities that would tend to generate additional parking demand, among other factors, support the conclusion that granting this relief would not be detrimental to public good.

Based on this analysis, OP thinks the application meets the standards for variance approval.

Consistency with §§ 411.11 and 3104:

Section 411.11 of the regulations states:

“Where impracticable because of operating difficulties, size of building lot, or other conditions relating to the building or surrounding area that would tend to make full compliance unduly restrictive, prohibitively costly, or unreasonable, the Board of Zoning Adjustment shall be empowered to approve, as a special exception under § 3104, the location, design, number, and all other aspects of such structure regulated under (§ 411.5), even if such structures do not meet the normal setback requirements of ... § 770.6 ...”

Regarding § 411.5, the applicant indicated that the penthouse would be positioned on the irregularly-shaped roof to best service the proposed building.³ Given that placement and the need to maintain the required 1:1 setback from the southwest building wall, the heights of multiple enclosure walls must be reduced as they come closer to this building edge.⁴

Regarding § 770.6 (b), the portion of this penthouse next to the open court along N Street would not meet the 1:1 setback. The Statement explained that, although this portion of the roof structure in the southwest portion of the roof was lowered as much as possible, to a height of 13 feet, it would only set back 10.5 feet from the exterior wall next to the open court. Upon further review, OP noted that the roof structure would actually become *part* of this exterior wall in the southwest corner, resulting in a setback of 0 feet.⁵

Zoning relief is required as a result. The required setback is maintained along the entire New York Avenue frontage and nearly half the N Street frontage. Although portions of the penthouse and its enclosure would be inconsistent with the letter of the regulations, a separation of at least 28 feet 10 would be maintained between the 18 foot - 6 inch portion of the penthouse and the building frontage along N Street due to the open court.⁵ The Statement indicated that the proposed roof structure would not prevent adequate light and air from reaching adjacent properties on the abutting streets. OP also observed that the negative impact of these irregularities on the shadows and shade cast by a building 130 feet in height would be minimal.

Based on this information, OP concurs that the penthouse as proposed would generally be in harmony with the purpose and intent of the Zoning Regulations. This request is therefore consistent with the referenced standard for special exception approval.

VI. AGENCY REVIEW

A memorandum dated April 27, 2012; DDOT recommends approval of the requested variance from the off-street parking requirement contingent on implementing a successful valet parking program and implementation of appropriate traffic demand management (TDM) measures. The applicant's intention of utilizing valet service and off-site lots to accommodate any short term or long term parking was supported because the site is well-served by public transportation, with the New York Ave Metro, Capital Bikeshares, the Metropolitan Branch Trail, and several WMATA bus routes all located within a two block radius. The agency found it reasonable to expect that the majority of trips generated by the site would be non-vehicular.

The agency was less supportive of the proposed lay-by along N Street to accommodate taxis, shuttles, valet, etc., because such an arrangement may not be in the long-term interest of the District's need to accommodate multiple competing transportation demands on the area. The applicant was encouraged to work with DDOT before and during the Public Space permitting process to come to a public space solution that satisfies their drop-off\valet needs as well as the requirements of DDOT to accommodate all travel modes in a safe manner.

VII. COMMUNITY COMMENTS

This application was forward to Advisory Neighborhood Commission (ANC) 6C for review and comment. On April 11, 2012, ANC 6C voted unanimously to support the application at its regularly-scheduled public meeting.

³ reference sheet A104 of the architectural plans submitted with the Pre-Hearing Statement

⁴ reference plan sheet A206

⁵ reference plan sheet A105