



MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Jennifer Steingasser, Deputy Director Development Review and Historic Preservation

DATE: July 13, 2010

SUBJECT: BZA 18087 – NPR

I. RECOMMENDATION

OP recommends **approval** of NPR's request for special exception relief pursuant to:

- § 2712 to permit the installation of 53 roof mounted antennas not meeting the setback, height and visibility requirements of Section 2704;
- § 411.5 to permit penthouse walls of uneven height; and
- Variance relief pursuant to § 770.6 (b) to permit penthouse walls not set back the required distance from the roof's edge.

In recent cases, OP has identified the appropriate relief for the roof structure setback requirement to be area variance rather than special exception relief (as the application here requests).¹ As a result, OP's review is based on an examination of the variance standards of § 3103 concerning relief from § 770.6.

II. SITE DESCRIPTION

Applicant	National Public Radio, Inc. - NPR
Address	1111 North Capitol Street NE
Legal Description	Square 673 Lot 847
Zone	C-3-C
Building Description	Four story warehouse building known as the Chesapeake & Potomac Company Warehouse (C&P Building). This is an existing historic structure and it is currently unoccupied.
Square Boundaries	The square is bounded by North Capitol Street on the west, Pierce Street, NE on the north, 1 st Street NE on the east and L Street NE on the south.
Surrounding Area	East: Office buildings in the NoMa neighborhood - C-3-C district. North: DCHA –office building - C-3-C district. South: Medical office building – Kaiser Permanente – C-3-C district. West: Directly opposite – residential multi-family building in the R-5-D district.

¹ See BZA Case Numbers 17809 and 17843.



III. APPLICATION IN BRIEF

The applicant, National Public Radio (NPR), has proposed to renovate the former C&P Building, including construction of a new seven-story addition at the rear to accommodate NPR’s operations.

The proposed addition would include an entrance pavilion with a lobby, a studio/performance facility, and a seven-story office portion set back from the building’s frontage, with a three story portion that is raised above the roof of the existing structure, *seeming to float above the structure in a way that allows the landmark to stand free of the addition.* (HP comments)

Portions of the proposed building’s penthouses would not meet the setback requirements in three areas. In addition, three penthouse walls towards the building’s frontage are shorter than four other walls of the two-tiered penthouse structure towards the rear, as shown in Exhibit B of the prehearing statement, July 6, 2010 (ZR-04).

The proposed installation of 53 antennas on the building’s roof would not conform to the requirements of Section 2704 for roof mounted antennas, including setback requirements, mounted heights and visibility requirements. Therefore, relief is required pursuant to Section 2712 of the Zoning Regulations. The antennas, including satellite dishes, AM and FM receivers and GPS antennas necessary for the station’s core operations are of varied functions, shapes and heights. They would be located on the roof of the historic portion of the building, as well as the penthouse roof. The antenna plan presented in Exhibit B (ZR-07) provides the approximate areas for their installations on the roof.

The existing building is a landmarked historic structure, so the addition and alterations are subject to review by the Historic Preservation Review Board (HPRB).

IV. ZONING REQUIREMENTS

The Property is zoned C-3C, which permits medium-high density development, including office, retail, mixed-use housing and mixed-use development. The proposed penthouses do not conform as to uniformity of height (§ 411.5), or setbacks from external walls (§ 770.6(b)). The proposed building is in compliance with all other applicable provisions of the Zoning Regulations.

C-3-C Zone	Regulation	Existing	Proposed	Relief
Height (ft.) § 770.1 (building)	130’ max. (TDR Receiving Zone)	58’	104’	Conforms (according to Height Act)
Height (ft.) § 770.6(d) (roof structures) § 411.5	18’6” max.	-	13’ 6”, 18’6”	Conforms Needs S.E. Relief
Roof structure setback (ft.) § 770.6(b)	1.mechanical enclosure (proposed height is 18’ 6”) 2. elevator and stairwell penthouse (proposed height is 13’ 6”)	- -	0 ft to external walls at rear courts B and C; 6’ 11’ from roof of new addition to the North Capitol Street frontage	Needs Variance relief Needs Variance relief

V. ANALYSIS

Section 2704.2 requires that proposed antennas which do not comply with the requirements of Section 2704 may be permitted through the special exception process set forth in § 2712. The relief is reviewed as follows:

A. § 2712 ANTENNAS SUBJECT TO BZA APPROVAL

§ 2712.1 An application for special exception approval shall include the following written and graphic documentation:

(a) A map of the area to be served by the new antenna;

The roof mounted satellite dish antennas are intended as satellite links and do not serve a coverage area like cellular antennas. Similarly, the other antennas are receiving antennas for off-air reception of signals and do not serve a particular local area. Therefore, this requirement is not applicable in this case.

(b) A map and explanation of the area being inadequately served that necessitates installation of the proposed antenna;

Similarly, as stated above, this requirement does not apply in this instance.

(c) A map indicating the location of any other antennas and related facility sites providing service by the applicant, and any antenna tower or monopole of any provider, within a two mile radius, including public space, of the proposed antenna site, with identified heights above grade;

The applicant's existing facilities are within a 2-mile radius and will be removed.

(d) A site, and roof plan if applicable, showing all structures and antennas on site;

A site plan has been submitted showing the roof structures proposed for the new site, including the area proposed for their installation.

(e) Elevation drawings of the structure and proposed antennas from all four directions;

Elevation drawings have been submitted with the applicant's request.

(f) A picture of the proposed antenna.

The antennas, with supporting description, structural dimensions and functions have been provided as part of the submission.

(g) The total mounted height of the antenna relative to the tops of surrounding trees as they presently exist within one-quarter (1/4) mile of the proposed location; and

The antennas would be located on the 4th floor roof top and the proposed penthouse roof of the building, which is located in a former industrial area. There are presently few trees. Existing trees on the property or within public space along North Capitol Street are much lower than both the height of the existing building (58 feet) and the proposed addition (104 ft.). Therefore, the total mounted height of installed antennas on the building's penthouse roof and the roof of the historic portion of the building would exceed the heights of any existing trees within the building's vicinity.

(h) Other information as may be necessary for impact assessment of the antenna.

OP does not require any other information regarding the proposed installation's impact.

§ 2712.2 In addition to any other conditions deemed necessary to mitigate potential adverse impacts, the Board may impose conditions pertaining to screening, buffering, lighting, or other matter necessary to protect adjacent and nearby property and may require the removal of any on-site non-conforming, inoperable, or unauthorized antenna.

OP is not recommending additional screening or buffering. The proposal will receive additional design review by HP staff and the HPRB, if necessary.

§ 3104 – SPECIAL EXCEPTION

The proposed antenna installation would be in harmony with the general purpose and intent of the Zoning Regulations and Map and will not tend to adversely affect the use of neighboring properties. The historic building is located in a former industrial area and the building’s use would represent a contemporary adaptation of its original use as a communication building.

The placement of the antennas on the historic portion of the building was also carefully considered by Historic Preservation staff. Based on recent discussions between HP and the applicant, the placement of the satellite dishes has been finalized, including the option which pulls the dishes in from the corners closest to North Capitol Street. The applicant would present the latest rendering at the hearing. This is not expected to affect the requested relief.

The installation would not adversely affect the use of neighboring properties due to the building’s location in a commercial district. Antenna installations on the penthouse roof would barely be visible from the North Capitol Street frontage due to the antennas’ proportions, metallic color and the penthouses’ setback from North Capitol Street.

OP recommends approval of the installation of the proposed and future antennas (not to exceed 53) within the areas depicted on the applicant’s Antenna Plan (ZR-07).

B. ROOF STRUCTURES

Variance Relief - Rooftop Penthouse Setback (§ 770.6 (b))

Section 411.11 states, in part,

“...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 §§411.3 through 411.6, even if such structures do not meet the normal setback requirements of §§400.7, 530.4, 630.4, 770.6, 840.3, or 930.3...”

The sections subject to the special exception allowance, §§411.3 through 411.6, do not regulate setback. The sections governing setback are referenced in §411.2. Because that section is specifically omitted, setbacks are not modifiable by special exception. The Office of Planning, therefore, recommends that the BZA review the requested relief as a variance.

In order to be granted a variance, the applicant must show that they meet the three part test described in §3103.

- 1. Does the property exhibit specific uniqueness with respect to exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situations or conditions?**

The property is a former communication building and existing historic structure, which would have a new addition to support the core operations of its proposed new use. Two penthouses would be located on the new addition and the larger penthouse is designed to accommodate multiple antenna installations and their required separations. The penthouse is also setback by the greatest extent possible in respect of the historic portion of the building. The combination of the older portion’s historic nature and the needs of station’s operations create an exceptional condition of the property.

2. Does the extraordinary or exceptional situation impose a practical difficulty which is unnecessarily burdensome to the applicant?

The penthouse setbacks are not met in three areas as shown on the roof plan, ZR 06 of Exhibit B of the applicant's pre-hearing statement of July 6, 2010. The larger penthouse aligns with the rear wall of the new addition on two sides resulting in two areas where the setbacks have not been met. The size of the larger penthouse is intended to accommodate the installation of a number proposed antennas on the roof and their spacing and orientation requirements. This results in a larger penthouse structure than may otherwise be necessary for an office use.

The portion of the roof structure accommodating the elevator penthouse of 13'6" is setback only 6'11" from the roof's edge and is placed to facilitate efficient access between the older and newer building addition. In addition, the building's core is located on the upper floors of the new addition due to the requirement to preserve the existing building in its original condition to the greatest extent possible. This would result in the elevator core and its penthouse closer to the roof's edge of the newer addition, in conflict with the setback requirement of the Zoning Regulations. Therefore, there would be a practical difficulty in complying with the Zoning Regulations and preservation requirement of the existing landmark structure.

3. Can the relief be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations and Map?

Relief from the setback requirement can be granted without detriment to the public good and without substantial impairment to the integrity of the Regulations, as light and air to surrounding properties would not be affected by the proposed design.

The Office of Planning recommends approval of variance relief from the setback requirements of the penthouse structures.

Special Exception Relief - Rooftop Structures of Equal Height (§ 411.5)

Section 411.11 empowers the Board to grant relief from § 411.5 as follows:

“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 §§ 411.3 through 411.6, even if such structures do not meet the normal setback requirements of §§ 400.7, 530.4, 630.4, 770.6, 840.3, or 930.3, when applicable, and to approve the material of enclosing construction used if not in accordance with §§ 411.3 and 411.5; provided, that the intent and purpose of this chapter and this title shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be adversely affected.”

The proposed roof structure is of uneven height, including the large 18' 6" penthouse portion towards the rear and the 13' 6"- high portion towards the front on the roof of the 7-story office tower addition. The latter accommodates the elevator overrun and the access stair with related mechanical ducts and equipment. The penthouse design is intended to reduce the building's mass, as the lower portion would accommodate only the elevator override and the stairwell. Enclosing all the core functions on the roof within all 18'ft 6"-tall walls would only serve to increase the height of the structure for the remainder of the penthouse structures and increase the perception of mass. This is unnecessary and would detract from the historic character of

the older portion of the building. OP has no objection to this relief to minimize penthouse size and visibility, and to support the building's historic character.

Analysis

OP does not anticipate that the planned penthouse and elevator enclosure locations and varying enclosure heights would impact the air and light available to the neighboring properties. Current development activity in the NoMa area suggests that the adjacent properties would be developed to a similar extent with commercial office buildings, such that the proposed rooftop structures would not result in an adverse impact. Granting the requested relief would be in harmony with the general purpose and intent of the Zoning Regulations, and Zoning Map to minimize the visual impact of rooftop structures, and the location of the proposed installations will not tend to affect adversely the use of the neighboring properties.

The proposed building is in compliance with all other applicable provisions of the Zoning Regulations.

VI. HISTORIC PRESERVATION

The property is a designated District of Columbia landmark and the project received concept approval from the Historic Preservation Review Board on November 19, 2009.

VII. COMMUNITY COMMENTS

The applicant met with ANC6C at its regularly scheduled public meeting on June 9, 2010 and received the ANC's approval for the project.

VIII. CONCLUSION

The Office of Planning recommends approval of the special exception request by National Public Radio to:

- Permit the proposed antenna installations within the outlined areas of the submitted plans; and
- Permit of uneven height, and
- Variance relief to permit penthouse walls that are not setback from the roof's edges equal to their height.

JS/kt