

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14259, of the Pennsylvania Building Associates, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the floor area ratio requirements (Paragraph 5301.11) to rehabilitate an existing structure and to construct an addition to extend the building area by filling in an existing closed court and 12th and 13th floor setbacks in a C-5 (PAD) District at premises 425 - 13th Street, N.W., (Square 291, Lot 818).

HEARING DATE: February 27, 1985
DECISION DATE: February 27, 1985 (Bench Decision)

FINDINGS OF FACT:

1. The subject site is located at the northeast corner of the intersection of 13th Street and Pennsylvania Avenue and is known as premises 425 13th Street, N.W. The site also has frontage on E Street. The site is in a C-5 (PAD) District.

2. The site consists of 18,805 square feet of land area and is developed with a thirteen story office building, having ground floor retail space.

3. North of the site across E Street is the Warner Building in the C-4 District. West across 13th Street is Western Plaza. South of the site across Pennsylvania Avenue are the Federal Triangle buildings. Adjacent to the site on the west is the newly constructed 1201 Pennsylvania Avenue office building in the C-5 (PAD) District.

4. The site lies within the area subject to the jurisdiction of the Pennsylvania Avenue Development Corporation, hereinafter referred to as the PADC.

5. The applicant proposes to rehabilitate the existing structure by removing elements of the facade and replacing the various building systems, including but not limited to the elevator, mechanical, electrical and plumbing components. The proposed renovation will entail the removal of all building elements except the structural concrete and steel. In addition, an extension of the building area will be made by filling in the existing closed court and the 12th and 13th floor setbacks. In order to facilitate these changes a variance from the floor area ratio requirements in the C-5 (PAD) District is required.

6. The C-5(PAD) District permits a maximum floor area ratio (FAR) of 10.0, or 188,050 square feet for the subject site. There now exists 214,300 square feet. The addition will provide an additional 19,159 square feet. The variance requested is 45,409 square feet or twenty-four percent.

7. The square in which the subject site is located is fully developed, occupied by the Pennsylvania Building and one other large office-retail building known as 1201 Pennsylvania Avenue.

8. The subject building, which was constructed prior to the adoption of the 1958 Zoning Regulations, is nonconforming as to FAR. The applicant's proposal would increase the FAR by approximately nine percent of the building's existing size and would result in an increased FAR from 11.4 to approximately 12.4. This increase in building bulk will occur above the 110 foot level and with the filling of the existing courts and will not be visible or perceptible from the street level.

9. Under the square guidelines of the Pennsylvania Avenue Plan of 1974, as amended, the Pennsylvania Building is recognized as a major structure which retains substantial economic viability. The existing structure was erected in 1954 and is regarded as an undistinguished example of the ribbon fenestration pattern that was popular for commercial buildings in the 1950's. Under the Plan, Square 291 is to be substantially redeveloped for office uses with ground floor retail space. The applicant's proposal meets the stated objectives of the Plan and has the support of PADC. The relief requested in this application is necessary to effectuate the design scheme approved by PADC.

10. The C-5(PAD) District was adopted by the Zoning Commission to assist in the development of Pennsylvania Avenue consistent with the provisions of the Pennsylvania Avenue Development Corporation Act of 1972 and to encourage the special purposes enunciated in Sub-section 5105.1 of the Zoning Regulations.

11. The PADC Plan requires construction of a uniform building line along the Pennsylvania Avenue and 13th Street frontages to a height established by a horizontal plane measured 135 feet above the building line. This height is to be maintained for a depth of at least fifty feet. This requires the infill of the two setbacks found at the twelfth and thirteenth floor levels of the existing structure. These setbacks contain approximately 7,000 square feet of gross floor area. Thus, a uniform frontage may be achieved that is compatible with the adjacent structure located at 1201 Pennsylvania Avenue. Variance relief is requested in order to conform with the PADC design goal of achieving a

uniform building line that relates to the monumental character of the other structures along the Avenue.

12. The same relief is required for the infill of the two existing interior courts. These are closed courts and are bounded on all sides by walls.

13. One of the courts is three stories deep and is currently used to hold mechanical systems. These systems will be replaced in the rehabilitation and relocated to the roof. The failure to grant relief will result in the retention of a void space within the interior of the building which serves no purpose. The infill of this court will add approximately 3,500 square feet of floor area or approximately 1.5 percent of the total gross floor area of the existing building.

14. The other court is eleven stories deep and is nonconforming as to court width and area. This court is only 879 square feet in area, or slightly more than fifty percent of the minimum area required. As a result, at the lower levels, the court is very dark and of little value. The construction of 1201 Pennsylvania Avenue effectively blocked off the light to this court. The building at 1201 Pennsylvania Avenue has no windows facing the court.

15. The above referenced courts lack utility in functional, aesthetic and construction cost terms so as to make their retention impractical. The infill of these courts will not be visible from the street.

16. The applicant's appraiser and economic consultant witness testified that the subject building is thirty-one years old and has many years of economic life. However, it is out of step with its neighbors from the FBI Building to the Washington Hotel, and cannot compete with its newer, more efficient, more modern, more eye appealing, more desirable neighbors. It was the opinion of the witness that the proposed plans of the applicant would ensure a development of the square for superior quality office development with associated retail, a development of architecturally distinguished buildings that complete the enclosure of Western Plaza and Pennsylvania Avenue in a harmonious and unified manner and the establishment of an attractive sidewalk environment, together with retail, restaurants, cafes and other ground level uses that will promote activity in the public spaces along the Pennsylvania Avenue. Such are the goals of the PADC Plan. The Board concurs.

17. The Office of Planning (OP), by report dated February 20, 1985, recommended that the application be approved. The OP reported that it was of the opinion that the requested variance relief was supportable based on the

practical difficulty test established under Paragraph 8207.11 of the Zoning Regulations. The OP reported that the plans to rehabilitate the building, including the new facade and the filling in of the existing 12th and 13th floor setbacks and the court areas, would not cause detriment to the public good or impair the intent of the Zoning Regulations. It was OP's opinion that the proposal will allow the Pennsylvania Building to come into compliance with the PADC Act as supported by the Comprehensive Plan, by creating a facade treatment which will contribute positively to the image of historic Pennsylvania Avenue. The Board concurs with the reasoning and recommendation of the OP.

18. The PADC, by letter dated February 13, 1985, reported that the PADC had reviewed the plans for the proposed rehabilitation. The proposed plans were in conformance with the Pennsylvania Avenue Plan, as amended, and the Square Guidelines for Square 291. The applicant's plans for rehabilitation of this building met the goals of the Pennsylvania Avenue Plan and Square Guidelines by eliminating the set back at the 110 foot height and building to the 135 foot height Plan guideline and by replacing the existing undistinguished pattern of "ribbon fenestration" with an exterior that will be compatible with nearby development. In addition, rehabilitation of the structure contributes to the Corporation's goal of adding to the amount of high quality office space on Pennsylvania Avenue as a means of contributing to the Avenue's economic potential. Therefore, the PADC supported the pending application and recommended that the Board of Zoning Adjustment grant its approval. The Board concurs.

19. Advisory Neighborhood Commission 2C, by letter dated February 15, 1985, reported that at its Executive Committee meeting of February 6, 1985, with a quorum of its membership present, the ANC considered and voted four to zero to support the above referenced application. The ANC was impressed with the design of the new facade and believed that it would contribute to the character and quality of the Pennsylvania Avenue corridor. In reaching its conclusion to support the application, the ANC found that the subject site was unique and affected by exceptional situations or conditions including the existence of a structure already nonconforming as to FAR and the design restrictions of the Pennsylvania Avenue Development Plan and Square Guidelines affecting the site. The ANC also found that the applicant was faced with practical difficulties as a result of the strict application of the Zoning Regulations in this case as it will be impossible to proceed with the building rehabilitation and facade replacement without the granting of the requested relief in that the provision of any additional gross floor area requires the approval of the Board of Zoning Adjustment. Lastly, the Advisory Neighborhood Commission found that there will be no adverse impact

as a result of granting the requested relief. The Board concurs with the reasoning and recommendation of the ANC.

20. A retail lessee of the subject structure appeared at the public hearing and expressed his concern that the rehabilitation of the subject structure was forcing him to move his restaurant business to other quarters or even out of the District of Columbia. The business would not return to the site because of the new rental on the premises. It was the lessee's opinion that this was a typical situation in the District of Columbia and that small businesses were penalized. While the Board can understand the dilemma, it has no jurisdiction over landlord/tenant matters.

21. There was no further opposition to the application at the public hearing or of record.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicants are seeking an area variance, the granting of which requires a showing through substantial evidence of a practical difficulty upon the owner arising out of some unique or exceptional condition of the property such as exceptional narrowness, shallowness, shape or topographical conditions. The Board further must find that the application will not be of substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan. The Board concludes that the applicant has met its burden of proof. The existence of a sound structure needing rehabilitation on this site centrally located at the core of the Pennsylvania Avenue redevelopment area constitutes a basis for variance relief. In this case, the existing structure on the site and the mandates of the PADC plan for bulk and design of the proposed rehabilitation substantially affects the applicant's ability to rehabilitate the existing structure without relief from the Board.

The Board further concludes that the relief can be granted without substantially detriment to the public good and without substantially impairing the intent and purpose of the zone plan. The Board concludes that it has accorded to the ANC the "great weight" to which it is entitled by statute. Accordingly, it is ORDERED that the application is GRANTED.

VOTE: 3-0 (John G. Parsons, William F. McIntosh and Carrie L. Thornhill to grant; Charles R. Norris and Douglas J. Patton not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:

Steven E. Sher
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER:

15 MAY 1985

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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