

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 17806 of MidAtlantic Realty Partners LLC, pursuant to 11 DCMR § 3103.2, for a variance from the lot occupancy requirements under § 772, a variance from the rear yard requirements under § 774, a variance from the limitation on compact parking space requirements under § 2115.2, and a variance from the off-street loading facility requirements under subsection 2201.1, to permit the construction of a multiple dwelling (residential) building with ground floor retail in the DD/C-2-C District at the southeast corner of the intersection of 6th and K Streets, N.W. (Square 484, Lots 23, 811-813, and 826).

HEARING DATE: September 9, 2008
DECISION DATE: September 9, 2008 (Bench Decision)

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 6C and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6C, which is automatically a party to this application. ANC 6C submitted a report in support of the application. The Office of Planning also submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for a variance pursuant to § 3103.2. No parties appeared at the public hearing in opposition to this application. Accordingly a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the ANC and the Office of Planning reports filed in this case, the Board concludes that in seeking variances from §§ 772, 774, 2115 and 2201, the applicant has met the burden of proving under 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning

441 4th Street, N.W., Suite 200/210-S, Washington, D.C. 20001

Telephone: (202) 727-6311

Facsimile: (202) 727-6072

E-Mail: dcoz@dc.gov

Web Site: www.dcoz.dc.gov

Board of Zoning Adjustment
District of Columbia
CASE NO.17806
EXHIBIT NO.2

BZA APPLICATION NO. 17806

PAGE NO. 2

Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application be **GRANTED** per Exhibit No. 11 (PLANS), **SUBJECT** to the following **CONDITIONS**:

1. There shall be loading restrictions during rush hours, 7:00 a.m. to 10:00 a.m. and 4:00 p.m. to 7:00 p.m.
2. Operations personnel or "flaggers" must be present to guide the loading maneuvers to and from 6th Street at all times to mitigate conflicts with pedestrian and vehicular traffic.

VOTE: **5-0-0** (Ruthanne G. Miller, Shane L. Dettman, Marc D. Loud,
Mary Oates Walker and Gregory N. Jeffries to grant)

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

Each concurring member approved the issuance of this order.

ATTESTED BY:


RICHARD S. NERO, JR.
Acting Director, Office of Zoning

FINAL DATE OF ORDER: SEP 11 2008

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

BZA APPLICATION NO. 17806
PAGE NO. 3

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE §§ 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

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Board of Zoning Adjustment



BZA APPLICATION NO. 17806

As Director of the Office of Zoning, I hereby certify and attest that on **SEPTEMBER 11, 2008**, a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party who appeared and participated in the public hearing concerning the matter and to each public agency listed below:

Norman M. Glasgow, Jr., Esquire
Holland & Knight, LLP
Suite 100
2099 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

MidAtlantic Realty Partners, LLC
1133 21st Street, N.W., Suite 720
Washington, D.C. 20036

Chairperson
Advisory Neighborhood Commission 6C
P.O. Box 77876
Washington, D.C. 20013

Single Member District Commissioner 6C01
Advisory Neighborhood Commission 6C
P.O. Box 77876
Washington, D.C. 20013

Matthew LeGrant, Zoning Administrator
Dept. of Consumer and Regulatory Affairs
Building and Land Regulation Administration
941 North Capitol Street, N.E., Suite 2000
Washington, D.C. 20002

441 4th Street, N.W., Suite 200/210-S, Washington, D.C. 20001

Telephone: (202) 727-6311

Facsimile: (202) 727-6072

E-Mail: dcoz@dc.gov

Web Site: www.dcoz.dc.gov

BZA APPLICATION NO. 17806

PAGE NO. 2

Tommy Wells, City Councilmember
Ward Six
1350 Pennsylvania Avenue, N.W., Suite 408
Washington, D.C. 20004

Jill Stern, Esquire
General Counsel
Department of Consumer and Regulatory Affairs
941 North Capitol Street, N.E., Suite 9400
Washington, D.C. 20002

ATTESTED BY:

A handwritten signature in black ink, appearing to read "Richard S. Nero, Jr.", is written over a horizontal line.

RICHARD S. NERO, JR.

Acting Director, Office of Zoning