

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18007 of Sibley Memorial Hospital, pursuant to 11 DCMR §§ 3104.1 and 3103.2, for a variance from the floor area ratio requirements under subsection 402.4, and a special exception and variance from the roof structure provisions (height and location of multiple roof structures) under subsections 400.7 and 411.11, to allow the expansion of an existing hospital, including a new eight-story addition containing a new patient pavilion, emergency department and cancer center, in the R-5-A District at premises 5255 Loughboro Road, N.W. (Square N-1448, Lot 26).

HEARING DATE: December 8, 2009
DECISION DATE: December 8, 2009 (Bench Decision)

SUMMARY ORDER

SELF CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 6).

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) 3D and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 3D, which is automatically a party to this application. ANC 3D filed a report, dated December 4, 2009, together with a resolution in support of the application with conditions. The ANC's report indicated that the ANC considered and voted to support the application at a regularly scheduled, duly noticed meeting at which a quorum was present.¹ (Exhibit 33). The Office of Planning (OP) filed a timely report recommending approval of the application. (Exhibit 32). The

¹ The ANC, by letter dated October 21, 2009, requested the Board's approval so it could file its report by December 4, 2009. (Exhibit 28). At the hearing the Board waived its rules and accepted the ANC's report into the record.

BZA APPLICATION NO. 18007
PAGE NO. 2

District Department of Transportation (DDOT) filed a preliminary report indicating that DDOT had received the Applicant's complete transportation study on November 16, 2009, but had not had an opportunity to complete its review of the study. DDOT requested that the Board leave the record open until January 5, 2010 to receive DDOT's report.² (Exhibit 31). Letters of support from The Palisades Association (Exhibit 35) and the Spring Valley West Homes Association (Exhibit 27) were submitted for the record. A letter expressing concern but also conditioned support of the project was submitted by Neighbors United Trust. (Exhibit 34).

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 pursuant to § 3103.2, for a variance from the floor area ratio requirements under subsection 402.4, and a variance from the roof structure provisions (height and location of multiple roof structures) under subsections 400.7 and 411.11. Based upon the record before the Board and having given great weight to the ANC and OP reports filed in this case, the Board concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2, 402.4, 400.7 and 411.11, that there exists an exceptional or extraordinary situation or condition related to the property that creates an undue hardship for the owner in complying with the Zoning 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.

In addition, 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 pursuant to § 3104.1, for special exception under subsections 400.7 and 411.11. 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 OP reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1, 400.7 and 411.11, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

² The Board considered, but rejected, DDOT's request to hold the record open, in part because the Applicant had already had numerous discussions and reviewed the transportation issues regarding the hospital with DDOT and the neighbors in the related PUD case before the Zoning Commission (ZC Case No. 05-42).

BZA APPLICATION NO. 18007
PAGE NO. 3

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 (pursuant to Exhibit 29B – Plans) be **GRANTED AS CONDITIONED**:

1. Sibley shall construct a vegetated green roof with a minimum area of 12,281.88 square feet above the Cancer Center to compensate for the loss of the same amount of greenspace that will occur as a result of the proposed new construction.
2. Sibley shall use light-colored materials for the roof structures and mechanical systems screen, similar in color to the roof structure on the medical office building.
3. Following the completion of construction of the new intersection at Dalecarlia Parkway and Loughboro Road and the new medical office building, Sibley shall provide ANC 3D with quarterly reports on its efforts to address hospital-related traffic issues.
4. Sibley shall provide a letter to WMATA and DDOT in support of the rerouting of Metrobuses off the uphill stretch of Loughboro Road and rerouting the buses to the bus layovers located on westbound Loughboro Road via Little Falls Road.
5. Sibley shall provide a letter to MPD and DDOT in support of speed cameras around the hospital campus, including on northbound MacArthur Boulevard.
6. Sibley shall post schedule and pickup/drop-off location information for its shuttle to the Friendship Heights Metrorail Station on the Palisades Citizens' Association website and monthly in the *Northwest Current*.

VOTE: **3-0-2** (Meridith H. Moldenhauer, Shane L. Dettman, Michael G. Turnbull to APPROVE. Two other Board members not present, nor voting.)

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

The majority of the Board members approved the issuance of this order.

ATTESTED BY: 
JAMISON L. WEINBAUM
Director, Office of Zoning

BZA APPLICATION NO. 18007
PAGE NO. 4

FINAL DATE OF ORDER: DEC 11, 2009

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

UNDER 11 DCMR 3125.9, "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 FOR THE BOARD OF ZONING ADJUSTMENT."

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.

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, STATUS AS A VICTIM OF AN INTRAFAMILY OFFENSE, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



BZA APPLICATION NO. 18007

As Director of the Office of Zoning, I hereby certify and attest that on DEC 11, 2009, 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 and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

Paul Tummonds, Esq.
Pillsbury Winthrop Shaw Pittman LLP
2300 N Street, N.W.
Washington, D.C. 20037-1122

Chairperson
Advisory Neighborhood Commission 3D
P.O. Box 40846 Palisades Station
Washington, D.C. 20016

Single Member District Commissioner 3D04
Advisory Neighborhood Commission 3D
5445 Potomac Avenue, N.W.
Washington, D.C. 20016

Mary Cheh, City Councilmember
Ward Three
1350 Pennsylvania Avenue, N.W.
Suite 108
Washington, D.C. 20004

Melinda Bolling, Esq.
Acting General Counsel
Department of Consumer and Regulatory Affairs
941 N. Capitol Street, N.E.
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. 18007
PAGE NO. 2

ATTESTED BY: 
JAMISON L. WEINBAUM
Director, Office of Zoning