

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment

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Application No. 18200 of the RP MRP 900 G LLC, pursuant to 11 DCMR §§ 3104.1, and 3103.2, for a special exception from the roof structure setback and varying height requirements under §§ 777, 400.7, and 411.5, and a variance from the parking, loading, and open court requirements under §§ 2101.1, 2201.1, and 776.1, respectively, to renovate and construct an addition to an existing office building in the DD/C-4 District at premises 624 9th Street, N.W. (Square 376, Lot 68).

HEARING DATES: April 26, 2011 and May 24, 2011

DECISION DATE: May 24, 2011

SUMMARY ORDER

SELF CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.² (Exhibit 5.)

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”) 2C and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2C, which is automatically a party to this application. ANC 2C filed a letter report, dated May 20, 2011, which indicated that at a duly noticed public meeting

¹ In its pre-hearing statement, the Applicant amended its application, noting that it did so in response to and after meeting with the adjacent neighbors, and filed revised plans to reflect those amendments. (Exhibit 32.) The initial application was amended to include a request for a variance relief from § 776.1 for a nonconforming open court in a commercial building, and for a special exception from the roof structure height requirements of § 411.5. The Applicant testified that the public received notice of the amended relief on the signs that were posted on the property. The caption has been amended to reflect these amendments.

² The record also contains a Zoning Administration letter, dated January 7, 2011. The Zoning Administrator’s letter described the relief that would be necessary to build the Applicant’s project, as originally designed, based on the fact that the building to be renovated was originally constructed in 1980 and built in compliance with the C-4 zoning in effect at that time, whereas the property now is located in the DD/C-4 Zone. (Exhibit 4.)

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. 18277

EXHIBIT NO. 8

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with a quorum of Commissioners present, the ANC voted to support the application and communicate its recommendation to the Board by a vote of three in favor, one opposed, no abstentions. (Exhibit 35.) The Office of Planning ("OP") submitted a timely report recommending approval of the application to renovate the existing mixed-use office building.³ (Exhibit 34.)

There were several applications for party status in opposition to the original application filed by neighboring property owners. Applications for party status in opposition were filed by Alex and Costas Karakatsanis and Barbara Blackmond, 916 G Street, N.W., Mather condo 701 (Exhibit 22); Kristi Maiselman, 916 G Street, N.W., Mather condo 302 (Exhibit 23); Mather Studio Lot Condominium Unit Owners Association ("Mather Condominium Board"), 916 G Street, N.W. (Exhibit 24); and Kenneth Houle, 1620 I Street, N.W., the representative of the owners of 901 F Street, N.W. (Exhibit 26).

At the hearing on May 24, 2011, the party status applications were considered by the Board as a preliminary matter. Mr. Houle, on behalf of the owners of 1620 I Street, N.W., appeared at the hearing and indicated that they no longer opposed the application as it was revised and withdrew the application for party status. Mr. Kevin Barone, treasurer of the Mather Condominium Board, appeared for the Mather Condominium Board. Mr. Barone requested that the party status application in opposition be amended to one of support, based on the Applicant's amended application reflecting the revised plans that the Mather Condominium Board had voted to accept among three potential sets of plans presented to them by the Applicant. The Board granted the request for party status in support. With respect to the other two party status applications filed by the Karakatsanises and Ms. Blackmond and Ms. Maiselman, the Board did not grant any of these applications for party status, as none of them attended the hearing. Thus, there were no parties in opposition and one party in support.

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 variances from the parking, loading, and open court requirements under §§ 2101.1, 2201.1, and 776.1, respectively, to renovate and construct an addition to an existing office building in the DD/C-4 District. 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, 2101.1, 2201.1, and 776.1, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty or 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.

³ OP's report indicated that the project, as revised, had been reviewed and approved by the owners of the adjacent condominium and office buildings.

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Further, based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof for special exceptions, pursuant to 11 DCMR §§ 3104.1, 777, 400.7, and 411.5, 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 therefore 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. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

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. The waiver will not prejudice the rights of any party, and is appropriate in this case. It is therefore **ORDERED** that this application (pursuant to Exhibit 32, Exhibit A – Revised Plans, May 10, 2011) is hereby **GRANTED**.

VOTE: **3-0-2** (Nicole C. Sorg, Jeffrey L. Hinkle, and Lloyd J. Jordan to GRANT; Greg M. Selfridge (recused) and Meridith H. Moldenhauer not participating.)

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

FINAL DATE OF ORDER: **JUN 07 2011**

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 PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

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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. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

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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As Director of the Office of Zoning, I hereby certify and attest that on June 7, 2011, a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, or delivered by electronic mail in the case of those ANC's and SMD's that have opted to receive notices thusly, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

Allison Prince, Esq. and Christine A. Roddy, Esq.
Goulston & Storrs
1999 K Street, N.W., Suite 500
Washington, D.C. 20006

Kevin Barone, Treasurer
Mather Studio Lot Condominium Unit Owners Association
916 G Street, N.W.
Washington, D.C. 20004

Chairperson
Advisory Neighborhood Commission 2C
P.O. Box 26182, Ledroit Park Station
Washington, D.C. 20001

Single Member District Commissioner 2C03
Advisory Neighborhood Commission 2C
612 Emmanuel Ct., N.W.
Washington, D.C. 20001

Jack Evans, Councilmember
Ward Two
1350 Pennsylvania Avenue, N.W., Suite 106
Washington, D.C. 20004

Melinda Bolling, Esq.
Acting General Counsel
Department of Consumer and Regulatory Affairs
1100 4th Street, S.W., 5th Floor
Washington, D.C. 20024

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