

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18287 of CAS Riegler Real Estate Development, pursuant to 11 DCMR § 3103.2, for a variance from the lot occupancy requirements under subsection 772.1, a variance from the closed court requirements under section 776, and a variance from the nonconforming structure provisions under subsection 2001.3, for an addition to and conversion of an existing building to a mixed-use residential building with ground floor retail in the ARTS/C-3-A District at premises 1324 14th Street, N.W. (Square 211, Lot 32).¹

HEARING DATE: December 13, 2011
DECISION DATE: December 13, 2011

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 5.)

The Board of Zoning Adjustment (“Board” or “BZA”) provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register*, and by mail to the Applicant, and to all owners of property within 200 feet of the property that is the subject of this application. The Advisory Neighborhood Commission (“ANC”) 2F, received proper and timely notice as well. The subject property is located within the jurisdiction of ANC 2F, which is automatically a party to this application. ANC 2F submitted a letter, dated December 5, 2011, in support of the application. The ANC noted that at a duly noticed and regularly scheduled public meeting on November 2, 2011, with a quorum present, the ANC voted unanimously (5:0) to support the application. (Exhibit 26.)

The Office of Planning (“OP”) submitted a timely report in support of granting relief from the requested variances from the lot occupancy, closed court, and addition to nonconforming structure requirements, but recommending denial of the requested “conditional variance” relief

¹ The Applicant amended the application to remove requests for variance relief from the street frontage limitations on eating and drinking establishments under § 1901.6, and for a special exception from the rear yard provisions under § 774.2. The case caption has been changed to reflect the amendments.

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from the requirements which govern eating establishments along 14th Street in Square 211.² (Exhibit 25.)

The District Department of Transportation (“DDOT”) filed a report, dated December 7, 2011, indicating that DDOT has no objection to the requested relief at the subject property. (Exhibit 27.)

Three letters of support from adjacent neighbors were submitted to the record. Letters were submitted from Justin and Michelle Kalinski, 1426 B Rhode Island Avenue, N.W., and James S. Kane, 1426 C Rhode Island Avenue, N.W, and Sharon D. Handler. (Exhibits 24, 28, and 29.)

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for variances under § 3103.2 from the strict application of the lot occupancy requirements under § 772.1, from the closed court requirements under § 776, and from the nonconforming structure provisions under § 2001.3. 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.

The Board closed the record at the conclusion of the hearing. 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 proof pursuant to 11 DCMR § 3103.2 for area variances under §§ 772.1, 776, and 2001.3 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 Regulations, and that the requested 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 requirements 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 the application, (**pursuant to Exhibit 24, Updated Plans**), is hereby **GRANTED**.

VOTE: **5-0-0** (Meridith H. Moldenhauer, Anthony J. Hood, Nicole C. Sorg, Lloyd L. Jordan, and Jeffrey L. Hinkle to approve.)

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

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

² By amending the application to remove the request for variance relief under § 1901.6, the Applicant resolved OP’s objections. OP recommended approval of the remaining relief requested.

ATTESTED BY:


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

FINAL DATE OF ORDER: DEC 14 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.

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.