

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment

2012 MAY 30 PM 2: 03



Application No. 18157 of Jemal's 2221 14th Street L.L.C., pursuant to 11 DCMR § 3103.2, for area variances from the parking requirements of subsections 2101.1, 2115.1, 2115.4, and 2117.5, and the court requirements of section 776, and special exceptions pursuant to 11 DCMR § 3104.1, from the rear yard requirements of section 774, the roof structure setback and enclosure height requirements of subsection 770.6, and the roof structure height requirements of the Arts Overlay under subsection 1902.1 to allow the construction of a new 30-unit apartment building in the Arts/C-3-A District at 2221 14th Street, N.W. (Square 234, Lots 28 and 124-127).

Note: The Applicant amended its application prior to the hearing to include a variance from the open court width requirements of § 776. (Exhibit 27.) At the hearing, the Applicant requested an additional variance from the parking requirements under § 2115.4. Further, the Applicant's name was changed and the application was amended to reflect the new entity name. There was no opposition to the amendments or the project as a whole. Because no party would be prejudiced, the Board of Zoning Adjustment ("Board") granted the request to amend the application pursuant to its authority under § 3100.5. The name change and those areas of relief are included in the case caption above.

HEARING DATE: January 25, 2011
DECISION DATE: January 25, 2011 (Bench Decision)

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 7 and 27.) By submission dated January 11, 2011, the applicant amended its application to include a variance from the open court width requirements of § 776. (Exhibit 27.) At the hearing, the applicant also requested an additional variance from the parking requirements under § 2115.4. The Board granted the requests to amend the application.

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 the Applicant, Advisory Neighborhood Commission ("ANC") 1B, and to all owners of property within 200 feet of the property that is the subject of this application. The subject property is located within the jurisdiction of ANC

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BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18419

EXHIBIT NO. 10

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1B, which is automatically a party to this application. ANC 1B submitted a letter in support of the application. The ANC report indicated that the ANC, at a regularly scheduled and properly noticed meeting at which a quorum was present, voted unanimously (8:0) to support the application. (Exhibit 25.) The Office of Planning ("OP") also submitted a report in support of the application. (Exhibit 28.) The U Street Neighborhood Association likewise submitted a letter in support of the application. (Exhibit 31.) The District's Department of Transportation ("DDOT") submitted a report recommending conditional approval of the application. (Exhibit 29.) With respect to the parking relief requested by the Applicant, DDOT recommended that the Applicant provide (i) a new car sharing membership (\$50 value) or a Capital Bikeshare membership (\$75 value) to each new resident, and (ii) a "SmarTrip" card worth \$100 to each new resident on a one-time basis.

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 a variance under § 3103.2 from the strict application of the parking requirements of §§ 2101.1, 2115.1, 2115.4, and 2117.5, and the open court width requirements of § 776; and for a special exception under § 3104.1 from the strict application of the rear yard requirements of § 774, the roof structure setback and enclosure height requirements of § 770.6, and the roof structure height requirements of the Arts Overlay § 1902.1. 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 §§ 2101.1, 2115.1, 2115.4, and 2117.5, and the open court width requirements of § 776, 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. The Board also concludes that the Applicant has met the burden of proof for special exception relief, pursuant to 11 DCMR §§ 3104.1, 774, 770.6, and 1902.1, and 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.

It is therefore **ORDERED** that the application is hereby **GRANTED**, with the following conditions:

1. The Applicant shall provide each initial resident of the building (on a one-time basis) a car sharing membership at a value of not less than \$50.00, or a Capital Bikeshare membership at a value of not less than \$75.00;

2. The Applicant shall provide each initial resident of the building (on a one-time basis) a SmarTrip card at a value of not less than \$100.00;
3. The Applicant shall install a temporary mural on the south façade of the building, which shall remain on the building until such time as construction on the adjacent property to the south would obstruct the mural; and
4. The Applicant shall have the flexibility to modify the design of the building to address any comments from the D.C. Historic Preservation Review Board during final review of the project, so long as the modifications do not require any additional areas of zoning relief.

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.

VOTE: 4-0-1 (Meredith H. Moldenhauer, Jeffrey L. Hinkle, Nicole C. Sorg, and Anthony J. Hood to approve; no other member (vacant) present or 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

FINAL DATE OF ORDER: FEB 01 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 PURPOSES OF SECURING A BUILDING PERMIT.

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

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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, 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**



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As Director of the Office of Zoning, I hereby certify and attest that on **FEB 01 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, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

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