

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18500 of 2914 Sherman LLC, pursuant to 11 DCMR § 3103.2, for a variance from the maximum story requirements under § 400, a variance from the nonconforming structure (§§ 401 (lot area), 403 (lot occupancy), 406 (open court), and 404 (rear yard)) provisions under § 2001.3, and a variance from the off-street parking requirements under § 2101.1, to convert an existing 18 unit apartment building into a 20 unit apartment building in the R-4 District at premises 2914 Sherman Avenue, N.W. (Square 2852, Lot 807).¹

HEARING DATE: February 5, 2013

DECISION DATE: February 5, 2013

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 (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") 1A, and to owners of property within 200 feet of the site. The site is located within the jurisdiction of ANC 1A, which is automatically a party to this application. ANC 1A submitted a timely report in support of the application. The ANC report indicated that at a duly noticed, regularly scheduled public meeting held on January 9, 2013, with a quorum of commissioners present, the ANC voted (6-3-1) to support the application. (Exhibit 30.)

The Office of Planning ("OP") submitted a timely report stating that OP was not opposed to the granting of the required relief listed in its report. (Exhibit 34.) The District Department of

¹ The Office of Planning indicated that the Applicant required variance relief for the rear yard provisions under § 404.1. The Applicant stated that while it did not believe rear yard relief was needed, since no change to the existing nonconformity was planned, it would not object to adding that relief if the Board so determined. The Applicant also indicated that because the staircase was to be covered, lot occupancy would increase from 68% to 70% and that the record should reflect that was the case. The relief granted by the Board included variance relief from the rear yard requirements under § 404 as well as the required lot occupancy relief. The caption has been amended to reflect the additional relief granted.

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BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18500

EXHIBIT NO. 39

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Transportation ("DDOT") submitted a report of "no objection". (Exhibit 33.)

Three letters of support for the application from neighbors John Zavales, 3035 Sherman Avenue, N.W.; Zikin Mehta, 3112 Sherman Avenue, N.W.; and Reema Mehta, 3112 Sherman Avenue, N.W., were submitted for the record. (Exhibit 32, Tab C.)

Ebise Bayisa, 2920 Sherman Avenue, testified in opposition to the application at the hearing.²

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 maximum story requirements under § 400, the nonconforming structure (§§ 401 (lot area), 403 (lot occupancy), 406 (open court), and 404 (rear yard)) provisions under § 2001.3, and the off-street parking requirements under § 2101.1, to convert an existing 18-unit apartment building into a 20-unit apartment building. 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.

Based upon the record before the Board and having given great weight to the OP and ANC reports filed in this case, the Board concludes that in seeking the variance relief that 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 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 is hereby **GRANTED, SUBJECT TO THE PLANS AT EXHIBIT 17.**

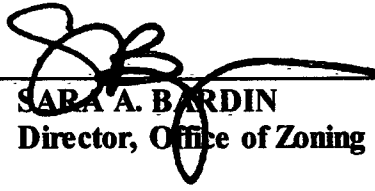
VOTE: **4-0-1** (Lloyd L. Jordan, Anthony J. Hood, Nicole C. Sorg, and Jeffrey L. Hinkle, to Approve; the third Mayoral appointee vacant.)

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

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

² In particular, Ms. Bayisa spoke to her objections to the parking variance. She indicated that she did not object to rehabilitation of the building and gaining new neighbors, but was concerned over the lack of on-street parking for the added population.

ATTESTED BY:


SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: February 11, 2013

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.