

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18533 of Perseus 1827 Adams Mill Investments LLC, pursuant to 11 DCMR §§ 3104.1 and 3103.2, for a variance from the number of required parking spaces under § 2101.1, a variance from the rear yard requirement under § 774, and a special exception from the roof structure requirements under § 411.11, to allow the construction of a mixed-use retail, service and residential building in the C-2-A District at premises 1827 Adams Mill Road, N.W. (Square 2580, Lot 853).¹

HEARING DATES: April 19, 2013 and May 7, 2013
DECISION DATE: May 7, 2013

SUMMARY ORDER

SELF-CERTIFIED

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

The Board of Zoning Adjustment (“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”) 1C, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1C, which is automatically a party to this application. ANC 1C submitted a report in support of the application, with conditions. The Office of Planning (“OP”) submitted a report in support of the application.

The District Department of Transportation submitted a report with a detailed analysis of the Applicant's project that was supportive of the application, with conditions.

Variance Relief:

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of

¹ The initial application did not include rear yard relief under § 774, but included relief under § 2116.4(a). However, according to the Applicant, the Zoning Administrator has determined that rear yard relief under § 774 is required, and that relief under § 2116.4(a) is not required. Thus, the Board allowed the Applicant to amend the application to include variance relief under § 774, and to withdraw the request for relief originally sought under § 2116.4(a). The caption reflects those changes.

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proving the elements that are necessary to establish the case, pursuant to § 3103.2, for area variances from § 774 and § 2101.1. 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 OP and ANC reports filed in this case, the Board concludes that in seeking variances from §§ 774 and 2101.1, 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 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.

Special Exception Relief:

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 relief under § 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 OP and ANC reports filed in this case, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 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.

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 26 - Plans, be **GRANTED SUBJECT to the following CONDITIONS:**

1. The Applicant shall provide either a \$75.00 SmartTrip Card, or \$75.00 toward a one-year membership in either a Bikeshare or Carshare service to each new resident.
2. The Applicant shall coordinate with a car-sharing service to determine the feasibility of locating the car-sharing vehicles in nearby public space, subject to a final determination by DDOT and the car sharing company.
3. The parking garage shall include at least 20 bicycle parking spaces. Additional bicycle parking racks shall be located in public space adjacent to the site subject to DDOT review and approval.

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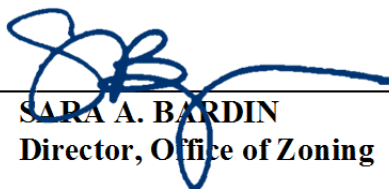
4. The Applicant shall not bundle the cost of purchasing or renting parking spaces with the cost of purchasing or renting a residential unit.
5. The Applicant shall provide each new resident of the building the opportunity to purchase or rent one of the available residential parking spaces before any resident of the building is given the opportunity to rent or purchase a second parking space.
6. The parking plan shall be in accordance with the parking plan submitted in this application. If DDOT determines that the below-grade portion of Lot 521 beyond the Building Restriction Line must be taken for a public purpose, the parking spaces in the garage may be reconfigured, provided that there are no less than 19 parking spaces.
7. The Applicant shall determine whether it is feasible to offer one of the commercial parking spaces in the garage to a car-sharing service.
8. The Applicant shall determine whether it is feasible to allow non-residents of the building to lease available residential parking spaces in the garage.
9. The Applicant shall implement the Transportation Demand Management Plan and the Loading Management Plan included in the Wells & Associates report.
10. The Applicant shall include in all initial sales agreements for residential units in the building a provision that residents of the building are not permitted to apply for District of Columbia Residential Permit Parking stickers. The Applicant shall require that all subsequent sales agreements for residential units must contain the same prohibition language.

VOTE: **3-0-2** (Lloyd J. Jordan, S. Kathryn Allen, and Michael G. Turnbull to Grant; Jeffrey L. Hinkle not present, not voting; one Board seat vacant.)

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

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

ATTESTED BY:



SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: May 17, 2013

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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.

PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. 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, 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

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PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT
BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.