

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 subsection 2101.1 and a special exception from the roof structure requirements under subsection 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 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.

¹ The Applicant and the Office of Planning testified that the Zoning Administrator has determined that variance relief from Section 2116.4(a) is not required in this case. Thus, the caption of this Order has been amended from the advertised text to eliminate that variance request.

The Office of Planning's report dated April 2, 2013 and testimony of April 9, 2013 indicated their position that rear yard variance relief is also necessary, because the required rear yard should be measured across the entire width of the lot, from Lanier Place, NW to the public alley, and the Zoning Administrator concurred. The Zoning Administrator then told the Applicant that he would also agree with the Applicant that no such rear yard variance was required, but that the Board should make the final determination. The Applicant then reported in an April 24, 2013 filing that the Zoning Administrator has subsequently taken the position that rear yard variance relief is required per the Board's rear yard determination in Appeal No. 18152. This would result in a different required rear yard location than the Zoning Administrator's earlier position and the Office of Planning's position. However, the Board finds that based upon all the facts of this case, rear yard variance relief is not required.

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 proving the elements that are necessary to establish the case, pursuant to § 3103 2, for an area variance from § 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 a variance from § 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 with the following conditions:**

1. The Applicant will 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.

- 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 developer shall meet with the ANC 1C Planning, Zoning and Transportation Committee concerning any proposed construction traffic plan before the plan is finalized with DDOT
- 10 The Applicant shall implement the Transportation Demand Management Plan and the Loading Management Plan included in the Wells & Associates report

VOTE:

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 BARDIN

Director, Office of Zoning

FINAL DATE OF ORDER: _____

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.

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 subsection 2101.1, a variance from the rear yard requirement under Section 774, and a special exception from the roof structure requirements under subsection 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 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 *DC Register* and by mail to Advisory Neighborhood Commission ("ANC") 1C, and to owners of property within 200 feet of the site

¹ The Applicant and the Office of Planning testified that the Zoning Administrator has determined that variance relief from Section 2116.4(a) is not required in this case. Thus, the caption of this Order has been amended from the advertised text to eliminate that variance request.

The Office of Planning's report dated April 2, 2013 and testimony of April 9, 2013 indicated their position that rear yard variance relief is also necessary, because the required rear yard should be measured across the entire width of the lot, from Lanier Place, NW to the public alley, and that the Zoning Administrator concurred. The Zoning Administrator then told the Applicant that he would also agree with the Applicant that no such rear yard variance was required, but that the Board should make the final determination. The Applicant then reported in an April 24, 2013 filing that the Zoning Administrator has subsequently taken the position that rear yard variance relief is required per the Board's rear yard determination in Appeal No. 18152. This would result in a different required rear yard location than the Zoning Administrator's earlier position and the Office of Planning's position. The Board finds that based upon all the facts of this case, rear yard variance relief is required. Based upon the unusual facts of this application, the Board waived the rules to allow consideration of a rear yard variance from Section 774. The caption of this case has been amended to reflect that additional relief.

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 proving the elements that are necessary to establish the case, pursuant to § 3103.2, for an area variance from § 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 with the following conditions:**

- 1 The Applicant will 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
- 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 developer shall meet with the ANC 1C Planning, Zoning and Transportation Committee concerning any proposed construction traffic plan before the plan is finalized with DDOT
10. The Applicant shall implement the Transportation Demand Management Plan and the Loading Management Plan included in the Wells & Associates report.

VOTE:

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 BARDIN

Director, Office of Zoning

FINAL DATE OF ORDER: _____

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