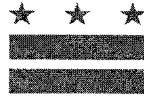


GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



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Application No. 17672 of LHO Washington Hotel Four LLC, pursuant to 11 DCMR § 3103.2, for a variance from the prohibition of expanding the gross floor area of a hotel by increasing the function or meeting space with the construction of an addition to a hotel existing on or before May 16, 1980, under § 350.4(d), in the R-5-E district at premises 1430 Rhode Island Avenue, N.W. (Square 211, Lot 858).

HEARING DATE: October 23, 2007

DECISION DATE: December 4, 2007

DECISION AND ORDER

This self-certified application was submitted May 14, 2007 by LHO Washington Hotel Four LLC (the "Applicant"), the owner of the property that is the subject of the application. The application requested a variance from the provisions of 11 DCMR § 350.4(d) prohibiting the expansion of gross floor area or the increase in function or meeting space within a hotel existing on or before May 16, 1981, to allow the construction of an addition to an existing hotel, the Hotel Helix, in the R-5-E district at 1430 Rhode Island Avenue, N.W. (Square 211, Lot 858).¹ Following a public hearing and public meeting, the Board voted on December 4, 2007 to grant the application.

PRELIMINARY MATTERS

Notice of Application and Notice of Hearing. By memoranda dated May 16, 2007, the Office of Zoning provided notice of the application to the Office of Planning; the Department of Transportation; the Councilmember for Ward 2; Advisory Neighborhood Commission ("ANC") 2F, the ANC within which the subject property is located; and Single Member District/ANC 2F02. Pursuant to 11 DCMR § 3113.13, on June 8, 2007 the Office of Zoning mailed letters or memoranda providing notice of the hearing to the Applicant, ANC 2F, and owners of property within 200 feet of the subject property. Notice of the public hearing was published in the D.C. Register on August 17, 2007 (54 DCR 8067).

¹ The relevant provision in § 350.4(d) refers to hotels "in existence as of May 16, 1980."

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BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18648

EXHIBIT NO. 10

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Party Status. In addition to the Applicant, ANC 2F was automatically a party in this proceeding. At the public hearing, the Board granted party status in opposition to the application to a party comprising two residents of the 1400 block of Rhode Island Avenue, N.W., Jeffrey Dzieweczynski and Stuart Serkin. A request for party status in opposition to the application from Emanuel Silberstein was withdrawn.

Applicant's Case. The Applicant provided evidence and testimony from Dean Lopez, the senior vice president of development for LaSalle Hotel Properties, a real estate investment trust that owned 31 hotels, including the Hotel Helix and six others in the District of Columbia, and was an affiliate of LHO Washington Hotel Four, LLC; Clint Brackman, an expert in architecture; and Michael Damian, the manager of the Hotel Helix. The Applicant described plans to construct a small one-story addition to the existing hotel building to provide additional space for meeting rooms. According to the Applicant, construction of the proposed addition was the only way to create a meeting area at the subject property that would provide a flexible, adaptable space that would be suitable for larger functions and consistent with the industry standard of an unobstructed floor plan.

The Applicant stated that the hotel was not performing as well as comparable hotels in its "competitive set" – that is, hotels in proximity to the subject property and competitive with the Hotel Helix with respect to rates and amenities – in that a higher proportion of guests at the Hotel Helix were transients (night-to-night) rather than groups, which were less labor-intensive and could be served more efficiently. The lack of adequate meeting space, similar to that found at comparable hotels, was cited as a factor that made the Applicant's hotel less attractive to groups of guests.

The Applicant requested an area variance from § 350.4(d) because the proposed addition would add both to the gross floor area of the hotel and to the floor area within the hotel dedicated to function or exhibit space. According to the Applicant, unique conditions affected the subject property, especially in that the hotel was converted from an apartment building and the hotel space could not be expanded without also expanding the building envelope due to the structural layout of the building, the location of a ramp to an underground parking garage, and the irregular shape of the subject property. The Applicant testified that the unique conditions gave rise to practical difficulties in complying with the Zoning Regulations because the hotel lacked space within the existing building to accommodate any medium-sized function or meeting area, which was integral to the operation of the hotel. The structural system and configuration of the building, especially its large side yards, limited the Applicant's ability to combine spaces within the building to accommodate groups that presently used the building or the larger groups that the hotel wished to attract.

The Applicant stated that its proposed *de minimus* addition – a two-percent increase in existing gross floor area – would allow for the continued operation of the hotel but would not convert the hotel into a major conference center. According to the Applicant, the planned addition would not cause any increase in vehicular traffic, any significant increase in off-site traffic to the site, or any major change in hotel operations.

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Government Reports. By memorandum dated October 11, 2007, the Office of Planning ("OP") recommended approval of the application as consistent with the requirements for variance relief.

ANC Report. By letter dated November 30, 2007, ANC 2F indicated that, at a duly noticed public meeting on September 5, 2007, with a quorum present, the ANC voted 3-0 to recommend approval of the application. According to ANC 2F, the Applicant had "successfully demonstrated that an exceptional condition existed, and that there was a practical difficulty or special circumstance and that there would be no harm to the public good or zone plan" associated with approval of the requested variance.

Party in Opposition to the Application. The party in opposition argued that the application should be denied because the addition would exacerbate existing adverse conditions arising from the operation of the hotel, especially with respect to traffic, parking, noise, and trash.

Persons in Support of the Application. The Board received letters and heard testimony in support of the application from several persons living in proximity to the subject property, who stated generally that the modest size of the addition would not create objectionable impacts in the neighborhood. The persons in support also commented favorably on the design of the addition and on the hotel's plans to install new landscaping and to repair a failing party wall between the subject property and an abutting condominium building.

FINDINGS OF FACT

The Subject Property and Surrounding Area

1. The subject property is located at 1430 Rhode Island Avenue, N.W., on the south side of the street between 14th and 15th Streets (Square 211, Lot 858).
2. The lot is generally rectangular, approximately 107 feet wide and 156 feet long, with an irregular rear boundary. The lot has an area of 18,194 square feet.
3. The property is improved with a multistory building, approximately 89 feet in height, used as a hotel with 179 rooms (109,164 square feet of gross floor area). The building was constructed in 1965 and was apparently converted from apartment to hotel use in the late 1970s. The first floor contains a restaurant/lounge, space used by hotel employees to operate the business, and a series of small conference rooms used as meeting space for hotel guests and events.
4. The building is set back approximately 10 feet from the street, and approximately 25 feet from the side property lines for most of the distance of the lot. The side setbacks are open courts, extending approximately 93 feet from the front of the property on each side of the building. The west court is currently used as outdoor space for the hotel restaurant,

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and is accessible to the public only through the restaurant. The east court is partly landscaped and contains some mechanical equipment.

5. The subject property provides 36 parking spaces. A below-grade garage accessed from the alley at the rear of the subject property contains 33 parking spaces. The garage is reserved for use by registered guests, whose vehicles are parked by a valet service. Three spaces at the front of the building (two of which are in public space) are accessed via a semicircular driveway from the street and are used as service/delivery spaces and as stacking spaces for the valet parking operation.
6. The subject property is located within the Greater 14th Street Historic District. The building is not a contributing building to the historic district. The Historic Preservation Office approved conceptual plans for the new addition.
7. The subject property is located in the Logan Circle neighborhood, a high-density residential transition area between the high-density mixed-use and commercial development of the downtown area south of Massachusetts Avenue and the lower density residential areas to the north. Properties in the vicinity of the subject property are developed primarily with row dwellings or multistory apartment buildings and hotels.
8. The hotel currently has a total of approximately 2,000 square feet of meeting space in four separate rooms on the ground floor at the rear of the building. Each room is approximately 20 feet by 30 feet in size. The current space can accommodate meetings of as many as 150 people in small groups.
9. The hotel's existing meeting space is limited in size and configuration due to its creation in the conversion of the building to hotel use from a residential apartment building that lacked large common areas. The existing meeting rooms cannot be combined into a larger space because of structural constraints relating principally to the columnar structure of the building, which was made of cast-in-place reinforced concrete with column widths ranging from approximately 11 feet to 14 feet from the center. The meeting rooms have low ceilings – the floor-to-ceiling height is approximately eight and a half feet – and thus poor sight lines, and lack the technological features generally used in meeting spaces.

Applicant's Proposal

10. The Applicant proposed to construct a one-story addition on the ground floor of the hotel building to create a flexible meeting space capable of accommodating up to 150 people in a single room with unobstructed floor space. The addition, which will include a small storage area, will serve larger and different types of meetings and functions than the hotel is currently able to host.

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11. The addition will be located on the east side of the subject property in the area currently used as a courtyard, eliminating the side yard setback and extending the northeast exterior wall to the property line. The addition will measure approximately 93 feet deep and 25 feet wide, containing approximately 2,189 square feet of floor area.
12. The new addition will have a green roof. The mechanical equipment currently housed in the courtyard will be relocated to the roof of the addition.
13. After construction of the addition, the small rooms currently used as meeting space will be used for smaller meetings or as a pre- or post-function area to support the new meeting space, providing, for example, food and beverage service for groups using the addition. The hotel presently lacks space for a pre- or post-function area.
14. The three-space parking area in the front of the hotel will be reduced to two spaces. A landscaped green space will be created in the public space in front of the subject property.
15. The new addition will increase the floor area of the hotel by two percent, and will increase lot occupancy from 61 percent to approximately 73 percent.

Harmony with Zone Plan

16. The subject property is zoned R-5-E. The R-5-E district is a general Residence district designed to permit flexibility of design by permitting in a single district all types of urban residential development if they conform to the height, density, and area requirements established for the districts. 11 DCMR § 350.1. A relatively high height and density are permitted in the R-5-E district. 11 DCMR § 350.2.
17. A hotel in existence as of May 16, 1980 is permitted as a matter of right in the R-5-E district, although the gross floor area of the hotel may not be increased and the total area within the hotel devoted to function rooms, exhibit space, and commercial adjuncts may not be increased. 11 DCMR § 350.4(d).
18. The building on the subject property conforms to the requirements of the R-5-E district with respect to height, minimum lot dimensions, and lot occupancy. No side yard is required in the R-5-E district.

CONCLUSIONS OF LAW

The Applicant seeks an area variance from prohibitions under § 350.4(d) against increasing the gross floor area of a hotel in existence as of May 16, 1980 or the total area within the hotel devoted to function rooms or exhibit space to allow the construction of an addition, to be used as meeting space, at a hotel in the R-5-E district at 1430 Rhode Island Avenue, N.W. (Square 211, Lot 858). The Board is authorized under § 8 of the Zoning Act to grant variance relief where,

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“by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the original adoption of the regulations or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property,” the strict application of the Zoning Regulations would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, provided that 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. *See* 11 DCMR § 3103.2.

The Board concurs with the Applicant that the subject property faces an exceptional situation or condition due to a confluence of factors. The building on the subject property was constructed and used as an apartment house prior to its conversion to hotel use, and thus lacks certain features typically found in hotels, such as large common areas. The conversion to hotel use was undertaken as a matter of right, but subsequent amendments to the Zoning Regulations restricted the Applicant’s ability to enlarge the hotel building or to alter the hotel operation by creating additional meeting space within the building. Structural features of the building, especially the limited space between columns and the relatively low ceilings, the irregularly shaped lot, the siting of the building on the lot, and the large side yards also constrain the Applicant’s ability to create a larger meeting space, consistent with the industry standard high ceiling and unobstructed sight lines, within the existing building.

The Board concurs with the Applicant that the strict application of the Zoning Regulations would result in peculiar and exceptional practical difficulties to the Applicant as the owner of the property. Absent the proposed addition, the hotel at the subject property would be unable to create a larger meeting space that the Applicant testified was integral to the successful operation of the hotel.

The Board concludes that the requested variance can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan. The relatively small addition will not cause the hotel to become a convention center, and thus is not likely to generate additional traffic or parking that could adversely affect the use of neighboring properties. The addition will provide a flexible space able to accommodate up to 150 people in a single room, the same capacity as the series of small meeting rooms currently used by the hotel. The hotel’s total meeting capacity will not increase appreciably, however, because the current meeting rooms will be devoted largely to functions supporting the principal meeting space in the new addition. The Board notes that residents living near the hotel commented favorably on the design of the planned addition, which also received conceptual approval from the Historic Preservation Office. The Board was not persuaded by the party in opposition that the new addition would create adverse conditions with respect to traffic, parking, noise, or trash.

The Board is required to give “great weight” to the issues and concerns of the affected Advisory Neighborhood Commission and to the recommendations of the Office of Planning. Both the Office of Planning and ANC 2F recommended approval of the application.

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Based on the findings of fact, and having given great weight to the recommendations of the Office of Planning and ANC 2F, the Board concludes that the Applicant has satisfied the requirements for an area variance, pursuant to § 3103.2, from the prohibitions in § 350.4(d) against the expansion of gross floor area or the increase in function or meeting space within a hotel existing on or before May 16, 1980, to allow the construction of a one-story addition containing meeting space at a hotel in the R-5-E district at 1430 Rhode Island Avenue, N.W. (Square 211, Lot 858). Accordingly, it is therefore **ORDERED** that the application is **GRANTED**.

VOTE: **4-0-1** (Ruthanne G. Miller, Shane L. Dettman, Marc D. Loud, and
Curtis L. Etherly (by absentee ballot) voting to approve; no
other Board Member participating)

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

Each concurring Board member approved the issuance of this order.

ATTESTED BY:


JERRILY R. KRESS, FAIA
Director, Office of Zoning

FINAL DATE OF ORDER: **JUN 09 2008**

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.

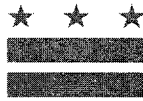
PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

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 THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

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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



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As Director of the Office of Zoning, I hereby certify and attest that on June 9, 2008, 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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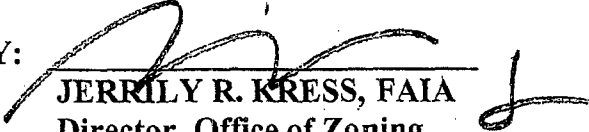
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