

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18692 of 1717 E Street LLC, pursuant to 11 DCMR § 3103.2, for a variance from the use provisions to construct a new eight-unit apartment house under § 330.5, in the R-4 District at premises 1717 E Street, N.E. (Square 4546, Lots 165, 166, and 167).

HEARING DATES: January 14, 2014, March 4, 2014, and April 15, 2014
DECISION DATE: April 15, 2014

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") 6A, and to owners of property within 200 feet of the site. The site is located within the jurisdiction of ANC 6A, which is automatically a party to this application. ANC 6A submitted a timely written report dated February 28, 2014, in support of the application with a condition restricting the number of residential parking permits to no more than three. The ANC also conditioned its approval on the Applicant's commitment to hire residents from the surrounding area to maintain the property and construct the apartment house as well as to support a neighborhood youth organization. The report indicated that at a duly noticed, regularly scheduled monthly meeting of the ANC on February 25, 2014, at which a quorum was present, the ANC voted to support the application by a vote of 4-1-0. (Exhibit 27.) The Office of Planning ("OP") submitted a timely report in which OP recommended the Board not approve the application for eight units and suggested that only six units be approved. (Exhibit 24.)¹ The District Department of Transportation ("DDOT") submitted a report stating that DDOT had no objection to the requested variance relief. (Exhibit 23.)

¹ At its public hearing of March 4, 2014, the Board continued the case to April 15, 2014 and asked the Applicant for additional information to augment the burden of proof, in particular to address "reasonable rate of return" and "self-imposed" concerns relative to the burden for the proposed eight-unit apartment house. The Applicant submitted the requested supplemental information. (Exhibit 29.)

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BZA APPLICATION NO. 18692
PAGE NO. 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 use provisions to construct a new eight-unit apartment house under § 330.5. 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 an undue hardship 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 REVISED CONCEPT PLANS² AT EXHIBIT 25 AND WITH THE FOLLOWING CONDITION:**

1. The Applicant shall limit the number of Residential Parking Permits (RPP) to no more than three permits.

VOTE: **3-1-1** (Marcie I. Cohen, Lloyd J. Jordan, and Marnique Y. Heath to APPROVE; Jeffrey L. Hinkle, opposed; S. Kathryn Allen, not participating or voting.)

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

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

ATTESTED BY:  _____ *for*
SARA A. BARDIN
Director, Office of Zoning

² The approval includes restriction of the number of Residential Parking Permits (RPP) to no more than three permits. In response to the community's concerns, the Applicant stated on the record its commitment to limiting RPP permits for occupants of the building to three and indicated that the restriction on RPP would be included in the sales documents. (Exhibit 25.) The Board accepted the Applicant's commitment and noted that the Applicant would be responsible for compliance with that commitment.

BZA APPLICATION NO. 18692
PAGE NO. 3

FINAL DATE OF ORDER: April 24, 2014

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 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO § 3129.9, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL TOLL OR 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.