

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18744 of SB-Urban LLC, pursuant to 11 DCMR §§ 3104.1 and 3103.2, for a variance from the court width requirements under § 536.3, a variance from the requirement to maintain existing parking under § 2100.10, a special exception from the requirement to provide additional parking for an addition to an historic resource under § 2120.6, and a special exception from the roof structure setback and uniform enclosing wall height requirements under § 411.11, for an apartment building in the DC/SP-1 District at premises 15 DuPont Circle, N.W. (Square 136, Lot 34).¹

HEARING DATE: May 6, 2014

DECISION DATE: May 6, 2014

SUMMARY ORDER

SELF CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 3.)

The Board of Zoning Adjustment ("Board" or "BZA") 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") 2B and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2B, which is automatically a party to this application. ANC 2B submitted a timely written report, dated March 17, 2014, in which the ANC stated that at a properly noticed, regularly scheduled public meeting held on March 12, 2014, with a quorum present, the ANC voted unanimously (7:0) to support the application's request for zoning relief. (Exhibit 21.)

¹ The Applicant amended the relief requested by eliminating the request for a variance from the parking requirements of § 2101.1 and adding a special exception from the requirement to provide additional parking for an addition to an historic resource under § 2120.6. (Exhibit 24.) The caption reflects those changes.

441 4th Street, N.W., Suite 200/210-S, Washington, D.C. 20001

Telephone: (202) 727-6311

Facsimile: (202) 727-6072

E-Mail: dcoz@dc.gov

Web Site: www.dcoz.dc.gov

BZA APPLICATION NO. 18744
PAGE NO. 2

The Office of Planning ("OP") submitted a timely report recommending approval of the application. (Exhibit 25.) The District Department of Transportation ("DDOT") submitted a letter recommending "no objection" subject to conditions. (Exhibit 26.)

Two witnesses testified in opposition to the project.

Variance Relief

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 court width requirements under § 536.3 and a variance from the requirement to maintain existing parking under § 2100.10 for an apartment building in the DC/SP-1 District. 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.

Special Exception Relief

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 special exception from the requirement to provide additional parking for an addition to an historic resource under § 2120.6, and a special exception from the roof structure setback and uniform enclosing wall height requirements under § 411. 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.

The Board concludes that the Applicant has met the burden of proof for special exception relief, pursuant to 11 DCMR §§ 3104.1, 2120.6, and 411 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.

BZA APPLICATION NO. 18744
PAGE NO. 3

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. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application be **GRANTED SUBJECT TO THE APPROVED REVISED PLANS AT EXHIBIT 24A AND THE FOLLOWING CONDITIONS**:

1. The Applicant shall have flexibility to modify the design of the building to address any comments from the D.C. Historic Preservation Review Board (HPRB), or HPRB staff, during final review of the project so long as such modifications do not require any additional areas of relief or substantial impact on the Approved Plans submitted to the BZA.
2. The Applicant shall implement the following Transportation Demand Management measures which shall:
 - a. Designate a member of the property management team as a Transportation Management Coordinator (TMC). The TMC shall provide information to residents identifying the available alternative modes of transportation and other supportive programs.
 - b. Direct new residents to the property's website, which will include information on transportation options.
 - c. Provide a transportation information screen in a common, shared space in the building that will show real time availability information for nearby trains, buses, and other transportation alternatives.
 - d. Restrict tenants from eligibility for Residential Parking Permit (RPP) for the blocks surrounding the property. The Applicant shall record this restriction in a covenant that runs with the land with the Recorder of Deeds.
 - e. Provide at least 31 secured, covered bicycle parking spaces within the building and at least four bicycle parking spaces in public space near the building's entrance, the latter subject to approval by public space officials.
 - f. Provide a bicycle repair facility within the building.
 - g. Provide a minimum of 10 bicycle helmets for use by the residents of the building.
 - h. Offer Capital Bikeshare to all new tenants who do not otherwise own a bicycle for the initial term of each lease in perpetuity.

BZA APPLICATION NO. 18744
PAGE NO. 4

- i. Offer membership in a car-share program to all new tenants for the initial term of their lease in perpetuity.
- j. Designate a loading management coordinator to coordinate all loading activities of the building and require all tenants to notify the loading management coordinator before moving in or out. Tenants requiring a moving truck shall provide the loading management coordinator the following information: time and date that the truck is anticipated to arrive, size of truck being used, and name of moving service, if applicable; and in the event that a moving truck is required, the loading management coordinator or tenant shall apply for DDOT Emergency No Parking signs to establish a temporary loading area. "Emergency No Parking" permits for loading are only eligible to be located in legal parking spaces, which are currently not located immediately adjacent to the subject site.

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

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

VOTE: **4-0-1** (Robert E. Miller, Marnique Y. Heath, Lloyd L. Jordan, and Jeffrey L. Hinkle to Approve; 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 order.

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

FINAL DATE OF ORDER: May 20, 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

BZA APPLICATION NO. 18744
PAGE NO. 5

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.

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