

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18772 of MR Gallery Square LLC, pursuant to 11 DCMR §§ 3104.1 and 3103.2, for variances from the court (§ 776), parking (§ 2101.1), loading (§ 2201) requirements and special exceptions from the roof structure (§§ 770.6 and 411) and the rear yard (§ 774) requirements to allow the construction of a new hotel with retail use in the DD/C-3-C District at premises 627 H Street, N.W. (Square 453, Lot 59).

HEARING DATES: June 10, 2014 and July 22, 2014

DECISION DATE: July 22, 2014

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 9.)

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") 2C and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2C, which is automatically a party to this application. The ANC did not submit a resolution on the application and did not testify at the public hearing. No party in opposition appeared at the public hearing, although persons in opposition did testify.

The Office of Planning ("OP") submitted a timely report on June 3, 2014, recommending approval of the application (Exhibit 29) and testified in support of the application at the hearing. The District Department of Transportation ("DDOT") submitted a timely report on June 3, 2014, indicating that it had no objection to the Applicant's requests for variance and special exception relief, subject to certain conditions. (Exhibit 30.) DDOT set forth modified conditions in an email dated June 9, 2014. (Exhibit 32.) With these conditions, DDOT indicated that it no longer had any concerns with the parking and loading variances requested. DDOT appeared at the July 22, 2014, public hearing and testified in support of the application.

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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 variances from §§ 776, 2101.1, and 2201. 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 report filed in this case, the Board concludes that in seeking variances from §§ 776, 2101.1, and 2201, 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 required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for a special exception from the roof structure (§§ 770.6 and 411) and the rear yard (§ 774) requirements. 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, 411, 770.6, and 774 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. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED THAT THIS APPLICATION IS HEREBY GRANTED SUBJECT TO THE REVISED PLANS AT EXHIBIT 28C AND THE FOLLOWING CONDITIONS:**

1. The Applicant shall provide free daily Capital Bikeshare passes as a part of Capital Bikeshare's Bulk Membership program for hotels upon request for hotel guests in perpetuity, not to exceed in value of \$5,000 per year.
2. The Applicant shall provide an annual Capital Bikeshare membership or car-sharing membership for each new employee for the first three years.

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3. The Applicant shall provide a minimum of two short-term bicycle parking racks (i.e., four spaces), the location of which shall be addressed in the public space permitting process.
4. Trash containers shall not obstruct the use of the alley.
5. The Applicant shall ensure that there is no on-street guest loading or unloading.

VOTE: **3-0-2** (Lloyd J. Jordan, Anthony J. Hood, and Jeffrey L. Hinkle to APPROVE; S. Kathryn Allen and Marnique Y. Heath, not participating nor 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:


SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: July 28, 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

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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.