

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18839 of 47th Avenue, LLC, pursuant to 11 DCMR § 3103.2, for a variance from the off-street parking requirements under § 2101.1 and a variance from the size of parking spaces requirements under § 2115, to allow the construction of a new four story mixed-use building with 16 residential units plus ground floor retail in the C-2-A District at premises 4700 through 4704 Wisconsin Avenue, N.W. (Square 1733, Lots 800, 833 and 834).¹

HEARING DATE: October 28, 2014
DECISION DATE: October 28, 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") 3E and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 3E, which is automatically a party to this application. ANC 3E submitted a resolution in support of the application (Exhibit 30), which indicated that at its duly noticed October 9, 2014 meeting, at which a quorum was present, the ANC voted 4-0-0 to support the application. ANC 3E also submitted a Memorandum of Understanding to the record (Exhibit 31) signed by the Applicant and the Chair of ANC 3E.

The Office of Planning ("OP") submitted a timely report on October 21, 2014, recommending approval of the application (Exhibit 28) and testified in support of the application at the hearing. The District Department of Transportation ("DDOT") submitted a timely report on October 21, 2014 (Exhibit 29), indicating that it had no objection to the parking relief requested, and testified to the same at the public hearing.

Variance Relief

¹ The Applicant revised the plans and amended the application to seek a variance from the size of parking space requirements of § 2115. The caption has been amended accordingly.

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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 pursuant to § 3103.2 for an area variance from §§ 2101.1 and 2115. 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 ANC and OP reports filed in this case, the Board concludes that in seeking variances from §§ 2101.1 and 2115, the Applicant has met the burden of proof 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.

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 IN THE RECORD AT EXHIBIT 27B AND THE FOLLOWING CONDITIONS:**

1. The Applicant shall have the flexibility to rearrange the location and size of the parking spaces, so long as the number of parking spaces is not reduced below eight spaces and the modifications do not require any additional areas of zoning relief;
2. The Applicant shall designate a Transportation Management Coordinator to implement the following transportation demand management (“TDM”) strategies: (i) development and distribution of information and promotional brochures to residents, visitors, patrons, and employees regarding transit facilities and services, pedestrian and bicycle facilities and linkages, ridesharing (carpool and vanpool) and car sharing, and (ii) ensure that loading activities are properly contained and do not impede the pedestrian, bicycle, or vehicular lanes adjacent to the development. The TMC will generally encourage non-private auto usage and will have related information prominently displayed in the common spaces of the project; and
3. The Applicant shall place a provision in the leases for all commercial tenants requiring them actively to discourage visitors to their establishment from unlawfully stopping or parking automobiles in front of the subject property or elsewhere in the neighborhood in connection with visits to the subject property. The provision shall note that should ANC 3E receive complaints about unlawful stopping or parking in connection with visits to the property, it may send a written notification to the Applicant concerning the same, and the Applicant shall ensure that a senior representative thereof will attend the next ANC meeting to address such complaints.

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VOTE: **4-0-1** (Lloyd J. Jordan, Marnique Y. Heath, Jeffrey L. Hinkle, and Peter May to approve; S. Kathryn Allen, not present or participating.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
A majority of the Board members approved the issuance of this order.

ATTESTED BY:



SARA A. BARBIN
Director, Office of Zoning

FINAL DATE OF ORDER: October 29, 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 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.

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

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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.