

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Board of Zoning Adjustment



**Application No. 17403 of Walnut Street LLC, on behalf of 917 M Street LP c/o Philip Abraham**, pursuant to 11 DCMR §§ 3103.2 and 3104.1, for a special exception from the roof structure enclosing wall equal height requirement under subsection 411.11, a variance from the lot occupancy requirement under section 772, and a variance from the residential recreation space requirement under subsection 773.3, to allow the construction of an apartment building in the C-2-A District at premises 917 M Street, N.W. (Square 368, Lot 900).

**HEARING DATE:** December 20, 2005  
**DECISION DATE:** December 20, 2005 (Bench Decision)

**SUMMARY ORDER**

**SELF-CERTIFIED**

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

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) 2F and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2F, which is automatically a party to this application. ANC 2F submitted a report in support of the application. The Office of Planning (OP) also submitted a report in support of the application.

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 § 3104.1, for a special exception under section 411.11. 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 and ANC reports the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 411.11, 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.

Based upon the record before the Board and having given great weight to the ANC and the Office of Planning reports filed in this case, the Board concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2, 772 and 773.3 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.

Based upon the record before the Board, and pursuant to 11 DCMR 3125.8, the Board finds that the applicant shall have the following flexibility: 1) to modify the plans approved by the Board to conform to the final plans approved by the Historic Preservation Review Board and staff; 2) to provide between 40 and 49 units in the project, through the consolidation or elimination of units that are shown on the plans submitted to the Board; 3) to decrease the number of parking spaces to the minimum number required by Chapter 21 of 11 DCMR, by elimination of the proposed lower level of the parking garage; and 4) to infill the proposed closed court at the cellar level to create storage rooms. This flexibility is granted only to the extent that the resulting modification is in compliance with the Zoning Regulations.

Pursuant to 11 DCMR § 3101.6, 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. It is therefore **ORDERED** that this application be **GRANTED**.

**VOTE:** **5-0-0** (Geoffrey H. Griffis, Curtis L. Etherly, Jr., John A. Mann, II, Ruthanne G. Miller and Michael G. Turnbull to approve)

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

Each concurring member approved the issuance of this order.

ATTESTED BY:

  
JERRILY R. KRESS, FAIA  
Director, Office of Zoning

FINAL DATE OF ORDER: JAN 23 2006

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT

TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

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.

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, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

TWR

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Board of Zoning Adjustment**



**BZA APPLICATION NO. 17403**

As Director of the Office of Zoning, I hereby certify and attest that on JAN 23 2006, 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:

Christopher H. Collins, Esq.  
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Chairperson  
Advisory Neighborhood Commission 2F  
5 Thomas Circle, N.W.  
Washington, D.C. 20005

Single Member District Commissioner 2F06  
Advisory Neighborhood Commission 2F  
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Bill Crews  
Zoning Administrator  
Dept. of Consumer and Regulatory Affairs  
Building and Land Regulation Administration  
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Councilmember Jack Evans  
Ward Two  
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**BZA APPLICATION NO. 17403**

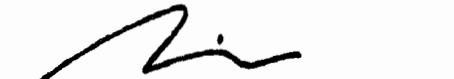
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Julie Lee  
General Counsel  
941 North Capitol Street, N.E.  
Suite 9400  
Washington, D.C. 20002

**ATTESTED BY:**



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**JERRILY R. KRESS, FAIA**  
Director, Office of Zoning

TWR

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Board of Zoning Adjustment**



**Application No. 17403-A of Walnut Street LLC, on behalf of 917 M Street LP c/o Philip Abraham**, pursuant to 11 DCMR §§ 3103.2 and 3104.1, for a special exception from the roof structure enclosing wall equal height requirement under subsection 411.11, a variance from the lot occupancy requirement under section 772, and a variance from the residential recreation space requirement under subsection 773.3, to allow the construction of an apartment building in the C-2-A District at premises 917 M Street, N.W. (Square 368, Lot 900).

**HEARING DATE:** December 20, 2005

**DECISION DATE:** December 20, 2005 (Bench Decision)

**MODIFICATION DECISION DATE:** December 5, 2006

**MODIFICATION ORDER**

**SELF-CERTIFIED**

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

The Board provided proper and timely notice of the December 20, 2005, public hearing on Application No. 17403, by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 2F and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2F, which is automatically a party to this application. ANC 2F submitted a report in support of the application. The Office of Planning (OP) also submitted a report in support of the application. No parties appeared at the public hearing in opposition to this application. The Board of Zoning Adjustment (“Board”) determined that the 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 the Board concluded that the Applicant met the burden of proof for the requested relief and granted the application, and approved Application No. 17403, by Order dated January 23, 2006.

**THE MODIFICATION**

On November 3, 2006, the Applicant filed a request to modify the plans approved by Board of Zoning Adjustment Order No. 17403. The Applicant served the OP and ANC 2F with a copy of the request for modification of plans at the same time that the request was filed. ANC 2F submitted a letter (Exhibit 34) in support of the modification request.

OP did not comment on the modification request. The modification request was accompanied by a request for a waiver of the six-month rule to allow consideration of the modification nine (9) months after the issuance of the order. None of the changes to the plans create any new areas of zoning relief. The requested modification involved the following changes to the approved plans:

1. Special exception for the Roof Structure Walls of Unequal Height. There are two roof structures on the modified plan. The elevator roof structure is in front of the building, and is less than four feet above the top of the project. Therefore, pursuant to subsection 411.17, it is not governed by the otherwise-applicable roof structure provisions. The stair tower has shifted to the rear of the roof, and includes sloping walls. As such, the same relief as previously granted remains applicable.
2. Residential Recreation Space Variance. The minimum required residential recreation space in the C-2-A District is 20% of the gross floor area devoted to residential. The Board approved a variance to allow 9.5% of compliant residential recreation space. Together with non-compliant recreation space, the total shown on the approved plans is 16%, all of which is outdoors and usable only in good weather. The modified plan includes 6.4% of compliant residential recreation space, plus additional non-compliant space, bringing the total to 10.5%. Although the recreation space is reduced, a large portion is now indoors which allows for year-round use.
3. Lot Occupancy Variance. The maximum permitted lot occupancy in the C-2-A District as a matter of right is 60%. The Board approved a variance to allow a maximum lot occupancy of 80%. The maximum lot occupancy shown on the modified plans is 87%. The lot occupancy on each level of the modified plans is smaller, on a floor by floor basis, than the approved plans.

## DECISION

On December 5, 2006, the Board, at its regularly scheduled public meeting, concluded that the aforementioned modifications (Exhibit 31) to the approved plans are minor and are within the requirements of § 3129. Additionally, the requested modifications do not change the material facts the Board relied upon in approving the original application. No additional zoning relief is required. After reviewing the request for modification and the supporting materials, the Board determined that the request should be granted.

Pursuant to 11 DCMR § 3101.6, 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. It is therefore **ORDERED** that the **MODIFICATION OF**

APPROVED PLANS AND WAIVER OF THE SIX-MONTH TIME LIMIT  
pursuant to section 3129 be GRANTED.

**VOTE: (December 20, 2005) APPROVING APPLICATION 17403:**

5-0-0 (Geoffrey H. Griffis, Curtis L. Etherly, Jr., John A. Mann, II,  
Ruthanne G. Miller and Michael G. Turnbull to approve)

**VOTE: (December 5, 2006) APPROVING MODIFICATION OF PLANS and  
WAIVER of SIX-MONTH TIME LIMIT**

5-0-0 (Geoffrey H. Griffis, Curtis L. Etherly, Jr., John A. Mann, II,  
Ruthanne G. Miller and Michael G. Turnbull to approve)

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

Each concurring member approved the issuance of this order.

ATTESTED BY: 

JERRILY R. KRESS, FAIA  
Director, Office of Zoning 

DEC 06 2006  
**FINAL DATE OF ORDER:** \_\_\_\_\_

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

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RSN

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Board of Zoning Adjustment**



**BZA APPLICATION NO. 17403-A Modification of Approved Plans**

As Director of the Office of Zoning, I hereby certify and attest that on December 6, 2006, 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:

Christopher H. Collins, Esq.  
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Single Member District Commissioner 2F06  
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Zoning Administrator  
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Councilmember Jack Evans  
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**BZA APPLICATION NO. 17403-A**  
**PAGE NO. 2**

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**ATTESTED BY:**

  
**JERRILY R. KRESS, FAIA**  
Director, Office of Zoning

rsn