

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18856 of Lock 7 Development, pursuant to 11 DCMR § 3103.2, for a variance from the requirements regarding lot area (§ 401); nonconforming structures (§ 2001.3) with respect to lot occupancy (§ 403) and courts (§ 406); and parking and compact parking spaces (§§ 2115 and 2101.1) to allow a multiunit dwelling with three compact parking spaces in an R-4 District at 1514 8th Street N.W. (Square 397, Lots 830 and 831).

HEARING DATE: November 18, 2014
DECISION DATE: November 18, 2014

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 7.)

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 the Applicant, Advisory Neighborhood Commission (“ANC”) 6E, and to all owners of property within 200 feet of the property that is the subject of this application. The subject property is located within the jurisdiction of ANC 6E, which is automatically a party to this application. The ANC submitted a timely report in support of the application. The ANC’s report indicated that at a regularly scheduled, duly noticed meeting held on September 2, 2014, with a quorum present, the ANC met and considered the application and voted unanimously (7:0) to support it. (Exhibit 30.)

The Office of Planning (“OP”) submitted a timely report in which OP stated that it recommended approval of area variance relief for lot occupancy (§ 772.1) and for rear yard (§ 44), but could not recommend approval of variance relief for minimum lot area (§ 401.11) or parking (§§ 2101.1 and 2115), and recommended denial of variance relief for open court width (§ 406.1) and for height (stories) (§ 400.1), the latter of which had not been requested or advertised, but which the Zoning Administrator, according to OP, had indicated was needed. (Exhibit 34.) At the hearing, after the Applicant had revised its plans (Exhibit 35) and had further discussions with OP, OP testified that the issue with the potential need for a variance from height (stories) pertaining to the mezzanine was no longer needed, that OP no longer objected to the variance

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relief for parking or open court, but that it still had reservations about the degree of relief requested for minimum lot area.¹ The District's Department of Transportation ("DDOT") submitted a timely report indicating it had no objection to the application. (Exhibit 33.)

A letter of support was submitted for the record by the Central Shaw Neighborhood Association. (Exhibit 29.)

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 variances under § 3103.2 from the strict application of the requirements of lot area (§ 401); nonconforming structures (§ 2001.3) with respect to lot occupancy (§ 403) and courts (§ 406); and parking and compact parking spaces (§§ 2115 and 2101.1) to allow a multiunit dwelling with three compact parking spaces in an R-4 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 ANC and OP reports filed in this case, the Board concludes that the Applicant has met the burden of proof pursuant to 11 DCMR § 3103.2 for area variances under §§ 401, 2001.3, 403, 406, 2115, and 2101.1, 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.

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 APPROVED REVISED PLANS AT EXHIBIT 35.**

VOTE: **4-0-1** (Marnique Y. Heath, Lloyd L. Jordan, S. Kathryn Allen, and Anthony J. Hood to APPROVE; Jeffrey L. Hinkle, not present, not voting.)

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

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

¹ OP testified that it had expected the Applicant to have considered alternatives to its design of units to lower the degree of lot area relief it would need, and in rebuttal testimony, the Applicant's architect testified that the Applicant had considered such alternatives but did not choose them for the reasons the Applicant provided at the hearing and in its Pre-Hearing Statement. (Exhibit 31.)

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ATTESTED BY:


SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: November 21, 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.