

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18992 of Congressional 1015 E Street, LLC, as amended,¹ pursuant to 11 DCMR § 3103.2, for variances from the lot occupancy requirements under § 772.1, the court width requirements under § 776.3, the closed court requirements under § 776.4, and the nonconforming structure requirements under § 2001.3(b)(2), to allow the renovation and expansion of an existing building to create a five-unit apartment building in the CHC/C-2-A District at premises 105 E Street S.E. (Square 973, Lot 813).

HEARING DATE: May 5, 2015
DECISION DATE: June 16, 2015

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 3A2.) The zoning relief requested was subsequently amended, based on revised plans filed by the Applicant. (Exhibit 41.)

The Board of Zoning Adjustment (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”) 6B, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6B, which is automatically a party to this application. The ANC submitted a report indicating that at its regularly scheduled and properly noticed public meeting of April 20, 2015, at which a quorum was in attendance, ANC 6B voted 6-3-1 to take no position regarding the application. (Exhibit 22).

The Office of Planning (“OP”) submitted a timely report and testified at the hearing in support of the application. (Exhibit 26.) The District Department of Transportation (“DDOT”) filed a report expressing no objection to the approval of the application. (Exhibit 42.)

In advance of the Board’s public hearing on May 5, 2015, 13 letters in opposition from neighbors were submitted to the record. (Exhibits 17, 19-21, 23-25, 27, 28, 30, 34, 35, and 37.) A letter

¹ The Applicant’s original request was for variance relief from the side yard requirements under § 775.5, and the nonconforming structure requirements under § 2001.3(b)(2). The Applicant requested an amendment to the relief requested in its statement under Exhibit 41, in conjunction with revised plans filed under Exhibit 41B.

BZA APPLICATION NO. 18992
PAGE NO. 2

from an Advocacy Associate with Casey's Trees submitted a letter raising concerns regarding potential damage to a nearby elm tree. (Exhibit 31.) Two letters from Pitchford Associates were filed to the record providing an arborist's opinion on how the proposed construction might affect the critical root zones of nearby trees. (Exhibits 32 and 33.)

During the hearing, three neighbors, Janet Crowder, Michael Ford, and Neil Rhodes, testified in opposition to the application. Michael Ford also presented a shadow study that was submitted to the record. (Exhibit 38A.) Gary Peterson of Capitol Hill Restoration Society was unable to testify in person at the hearing, but submitted written testimony indicating that Capitol Hill Restoration Society voted to support variance relief for the existing nonconforming side yard, but voted to oppose the variance for the extension of the side yard. (Exhibit 39.)

In response to concerns raised at the hearing, the Applicant submitted revised plans, accompanied by a request to amend the relief requested. (Exhibits 41 and 41B.) The filings also included a letter signed by the three neighbors who testified in opposition, expressing their support for the revised plans. (Exhibit 41A.) After the Applicant presented revised plans to the ANC, it submitted a supplemental report indicating that at its regularly scheduled and properly noticed public meeting on June 9, 2015, at which a quorum was in attendance, ANC 6B voted 9-0 in support of the amended application. (Exhibit 43). Also in response to the revised plans, OP submitted a supplemental report on June 15, 2015, indicating that it recommends approval of the amended relief. (Exhibit 44.) Three neighbors filed letters raising concerns about how the proposed development would affect nearby trees. (Exhibits 45 – 47.)

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 lot occupancy requirements under § 772.1, the court width requirements under § 776.3, the closed court requirements under § 776.4, and the nonconforming structure requirements under § 2001.3(b)(2), to allow the renovation and expansion of an existing building to create a five-unit apartment building in the CHC/C-2-A District. The only parties to the case were the ANC which was in support and the Applicant. 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 ANC and OP reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11DCMR §§ 3103.2, 772.1, 776.3, 776.4, and 2001.3, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty or undue hardship 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.

BZA APPLICATION NO. 18992
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 is hereby **GRANTED, SUBJECT TO THE APPROVED REVISED PLANS AT EXHIBIT 41B.**

VOTE: 4-0-1 (Lloyd J. Jordan, Jeffrey L. Hinkle, Marnique Y. Heath, and Anthony J. Hood² to APPROVE; one Board seat vacant.)

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. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: June 26, 2015

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

² Chairman Hood voted by absentee ballot.

BZA APPLICATION NO. 18992
PAGE NO. 4

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.