

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19011 of Gabriel, LLC, as amended¹, pursuant to 11 DCMR §§ 3104.1 and 3103.2, for variances from the parking space width requirements under § 2115.1 and the driveway width requirements under § 2117.8(c)(2), and for a special exception from the new residential developments requirements under § 353, to allow the construction of a new three-story, six-unit apartment house in the R-5-A District at premises 129 Varnum Street N.W. (Square 3321, Lots 10 and 11).

HEARING DATES: June 9, 2015, June 16, 2015, and July 14, 2015²
DECISION DATE: July 14, 2015

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 5.) The Applicant amended the plans and the application to request variance relief from the parking space width requirements under § 2115.1 and the driveway width requirements under § 2117.8(c)(2), in addition to a special exception under § 353. (Exhibit 29.)

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") 4C and to owners of property located within 200 feet of the

¹ The Applicant amended the application and submitted revised plans and the additional filing fee. (Exhibits 29 – 30B, 33.) The application was amended to add variance relief from the parking space width requirements under § 2115.1 and the driveway width requirements under § 2117.8(c)(2), and to lower the number of units from seven to six. The Applicant amended the application to include: (1) area variance relief from the parking space size requirements under § 2115, to allow three of the six required spaces to be reduced by six inches to 8'6"; and (2) area variance relief from the driveway access width provisions of § 2117.8(c)(2) to allow the driveway to be reduced to 11 feet from the originally proposed 13 feet. Twelve feet is required. The Applicant indicated that the six inches shaved off of three parking spaces, along with the two feet from the driveway, will provide the 3'6" necessary to accommodate the trash enclosure at the rear of the property. (Exhibit 29.) The Applicant testified that it had reposted the notice to reflect the request for amended relief. The caption has been revised accordingly.

² The hearings on June 9 and 16, 2015 were postponed at the request of the Applicant.

BZA APPLICATION NO. 19011
PAGE NO. 2

site. The site of this application is located within the jurisdiction of ANC 4C, which is automatically a party to this application. The ANC did not submit a report, although there was testimony by the Applicant regarding the ANC's failure to pass a motion in support.³

The Office of Planning ("OP") submitted two reports. In the first OP report dated June 9, 2015, OP indicated that it could not recommend approval of the application for special exception and listed a number of issues that it stated needed to be resolved. (Exhibit 27.) Subsequently, OP submitted a supplemental report dated July 7, 2015, in which it recommended approval of the amended application and plans, including the variance relief being requested. (Exhibit 31.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the application. (Exhibit 28.)

A letter in opposition to the application was submitted by a nearby resident. (Exhibit 20.) At the hearing on July 14, 2015, six nearby residents testified in opposition to the application.

Variance 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 pursuant to § 3103.2 for area variances from the parking space width requirements under § 2115.1 and the driveway width requirements under § 2117.8(c)(2), to allow the construction of a new three-story, six-unit apartment house in the R-5-A District. The only parties to the case were the ANC and the Applicant. 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 OP reports filed in this case, the Board concludes that in seeking area variances from 11 DCMR §§ 2115.1 and 2117.8(c)(2), 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.

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 new residential developments requirements under § 353, to allow the construction of a new three-story, six-unit apartment house in the R-5-A District. The only parties to the case were the ANC and the Applicant. 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.

³ The Board was unable to grant the ANC great weight because the ANC did not file a written report.

BZA APPLICATION NO. 19011
PAGE NO. 3

Based upon the record before the Board, and having given great weight to the OP reports filed in this case, the Board concludes that the Applicant has met the burden of proof for special exception relief, pursuant to 11 DCMR §§ 3104.1 and 353, 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 § 3125.5, 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.

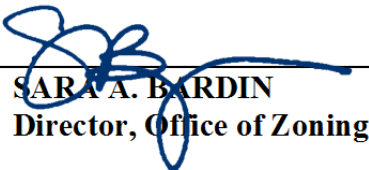
It is therefore **ORDERED** that the application is hereby **GRANTED SUBJECT TO THE APPROVED REVISED PLANS AT EXHIBITS 30A AND 30B.**

VOTE: **3-0-2** (Peter G. May, Jeffrey L. Hinkle, and Lloyd L. Jordan, to APPROVE;
Marnique Y. Heath and Fredrick L. Hill, 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. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: July 16, 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 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

BZA APPLICATION NO. 19011
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.