

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19021 of Amazing Love Health Services, as amended,¹ pursuant to 11 DCMR § 3103.2, for a variance from the off-street parking requirements under § 2101.1, to allow a medical office in the HS-A/C-2-A District at premises 702 15th Street N.E. (Square 1050, Lot 33).

HEARING DATES: June 23 and September 29, 2015
DECISION DATE: September 29, 2015

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

On April 7, 2015, the Applicant filed a request for relief, accompanied by a memorandum, dated March 31, 2015, from the Zoning Administrator (“ZA”), which stated that Board of Zoning Adjustment (“Board” or “BZA”) approval is required for a special exception pursuant to 11 DCMR §§ 3104.1 and 2108 to provide fewer off-street parking spaces than required for medical office use. (Exhibit 8.)

After consultation with Office of Planning (“OP”), the ZA determined that the appropriate relief for this application would be a variance, pursuant to 11 DCMR § 3103.2, from the off-street parking requirements under § 2101.1. The Applicant submitted a revised memorandum from the ZA to the record, (Exhibit 35), and subsequently amended its request for relief to a variance from § 2101.1. At the Board’s request, the Applicant posted revised signage on the property to give notice of its amended request for relief. (Exhibit 36.)

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”) 6A, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6A, which is automatically a party to this application.

¹ The Applicant’s original request was for a special exception pursuant to the off-street parking space reduction requirements under § 2108. (Exhibit 8.) After the public hearing on June 23, 2015, the Applicant submitted a revised memorandum from the Zoning Administrator indicating that a variance from the off-street parking requirements under § 2101.1 is required. (Exhibit 35.) The caption has been revised accordingly.

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ANC 6A submitted a report indicating that at its regularly scheduled and properly noticed public meeting of July 9, 2015, at which a quorum was in attendance, it considered the Applicant's amended request for variance relief under § 2101.1. At its meeting, the ANC voted 7-0 in support of application, with nine conditions. (Exhibit 33). The Board considered the conditions proposed by the ANC, but found that the conditions were beyond the scope of mitigating the requested relief from the off-street parking requirements. Further, the Applicant testified that he would continue to provide incentives for employees and patients to use public transit, as requested by the ANC, and indicated that the ANC has a point of contact for the Applicant, in the event that there are any issues. Therefore, the Board did not adopt the ANC's proposed conditions as part of this order granting relief.

The Office of Planning ("OP") submitted a timely report and testified at the hearing in support of the amended application for variance relief. (Exhibit 26.) The District Department of Transportation ("DDOT") filed a report expressing no objection to the approval of the application, but noted that the Applicant's original plans provide nine parking spaces in public space that were not approved by the Public Space Committee and not supported by DDOT. (Exhibit 27.) At the public hearing on September 29, 2015, the Applicant testified that the public space issue had been resolved with DDOT. The Applicant also provided revised plans that eliminate the nine parking spaces in public space previously proposed. (Exhibit 38.) In its report, DDOT also offered two conditions; however, the Board elected not to adopt either condition.

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 off-street parking requirements under § 2101.1, to allow a medical office in the HS-A/C-2-A District. The only parties to the case were the ANC 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 11 DCMR §§ 3103.2 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 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 38.**

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VOTE: 5-0-0 (Lloyd J. Jordan, Jeffrey L. Hinkle, Marnique Y. Heath, Frederick L. Hill, and Michael G. Turnbull to APPROVE.)

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: October 7, 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 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.