

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19024 of 1012 Harvard Street LLC, pursuant to 11 DCMR § 3103.2, for a variance from the off-street parking requirements under § 2101.1, to allow the expansion and conversion of an existing four-unit apartment building into a ten-unit apartment building in the C-2-A District at premises 1012 Harvard Street N.W. (Square 2857, Lot 814).

HEARING DATES: June 23 and July 28, 2015

DECISION DATE: July 28, 2015

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 5.)

The Board of Zoning Adjustment (“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”) 1B, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1B, which is automatically a party to this application. The ANC submitted a report dated June 12, 2015, indicating that at its regularly scheduled and properly noticed public meeting on June 4, 2015, at which a quorum was in attendance, ANC 1B voted 11-0-0 to support the application. (Exhibit 25.)

The Office of Planning (“OP”) submitted a timely report on June 16, 2015, recommending approval of the application (Exhibit 23) and testified in support of the application at the hearing. The District Department of Transportation (“DDOT”) submitted a timely report on June 16, 2015, indicating that it had no objection to the Applicant's request for variance relief, provided that the Applicant install a minimum of four long-term bicycle spaces. (Exhibit 24.) The Applicant accepted this condition, and accordingly, the Board adopted this recommendation as Condition No. 3 of its order.

At the public hearing, one resident, David Bryant, testified in opposition, raising concerns about the difficulty of finding street parking in the neighborhood. The Board acknowledged these concerns and requested that the Applicant provide a parking assessment to explore the potential impacts of the requested parking relief. The Applicant submitted a parking assessment and also proposed several Transportation Demand Management (“TDM”) measures. (Exhibit 30.) The

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proffered TDM measures were modified by the Board at the July 28, 2015 public hearing¹ and adopted as conditions of this order.

Variance Relief

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 § 3103.2, for a variance from the off-street parking requirements under § 2101.1. 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 filed in this case, the Board concludes that in seeking a variance from 11 DCMR § 2101.1, the Applicant has met the burden of proving under § 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.

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. It is therefore **ORDERED** that this application is hereby **GRANTED, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 7, AS MODIFIED BY THE LANDSCAPE PLAN AT EXHIBIT 28, AND THE FOLLOWING CONDITIONS:**

1. The Applicant shall provide, as a one-time incentive, each initial purchaser a bicycle helmet, equaling a total of ten (10) helmets.
2. The Applicant shall issue a one-time one-year bikeshare and/or car share membership as part of a move-in package for the first lessee or initial owner of each residential unit.
3. The Applicant shall provide one (1) bicycle parking or storage space per three (3) units for a total of four (4) bicycle spaces.
4. The Applicant shall offer a preloaded \$100 SmarTrip card for each unit at the initial sale of units in the building.
5. The Applicant shall post all TDM commitments online for a one-year period. The source shall also include links to CommuterConnections.com, goDCgo.com, WMATA Metrobus routes, DC Bicycle maps and other useful information in support of car-free urban living.

¹ The Applicant's proposed TDM measures included an offer to provide a preloaded \$10 SmarTrip for each unit at the initial sale; however, the Board modified this condition to require that each SmarTrip be preloaded with \$100 instead. All other conditions were adopted as proposed by the Applicant in Exhibit 30.

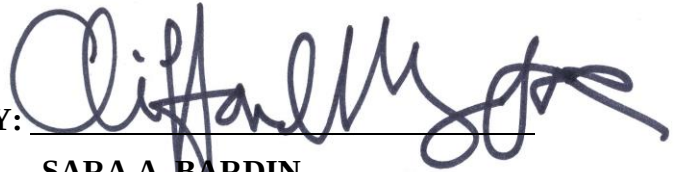
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VOTE: **3-0-2** (Lloyd J. Jordan, Marnique Y. Heath, and Michael G. Turnbull to APPROVE; Jeffrey L. Hinkle and Frederick L. Hill not present, not participating.)

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

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

ATTESTED BY: _____

A handwritten signature in blue ink, appearing to read "Sara A. Bardin", written over a horizontal line.

SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: August 5, 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.

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PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

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.