

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19068 of The Old Pentecost Church Temple of Truth,¹ pursuant to 11 DCMR § 3103.2, for variances from the lot area requirements under § 401.3, and the off-street parking requirements under § 2101.1, to allow the construction of four new flats on four new record lots in the R-4 District at premises 727 Hobart Place N.W. (Square 2888, Lot 202).

HEARING DATES: September 22 and October 6, 2015²
DECISION DATES: November 17 and December 8, 2015³

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 37.)

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") 1B and to owners of property located 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 in support of the application, dated October 3, 2014, indicating that at a duly noticed and scheduled public meeting on October 1, 2014, at which a quorum was in attendance, the ANC voted unanimously (10-0-0) in support of the application. (Exhibit 40.) Patrick Nelson, Chair of the Zoning Preservation and Development Group for ANC 1B, testified in support of the application at the public hearing on October 6, 2015.

The Office of Planning ("OP") submitted a timely report on December 2, 2014, indicating that it cannot support the requested variance relief. (Exhibit 35.) OP testified at the public hearing on October 6, 2016 that the Applicant had not provided sufficient information to demonstrate that the lot area of the property creates a practical difficulty. The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the application, subject

¹ The Applicant was originally listed as "The Old Penecost Church of Truth" based on an error in the Office of Tax and Revenue records, but its name has been corrected for this order.

² The public hearing was originally scheduled for September 22, 2015 and postponed to October 6, 2015 at the Applicant's request.

³ The decision for this case was originally scheduled for November 17, 2015 and postponed to December 8, 2015 at the Applicant's request.

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to three conditions. (Exhibit 36.) The Applicant testified that it accepted those conditions, and accordingly, the Board adopted the three conditions as part of this order.

Four letters in opposition to the application was submitted to the record by nearby residents. (Exhibits 27, 29, 30, and 31). The letters raised concerns about the existing parking issues in the area, maintaining the character of the neighborhood, and opposing any proposed curb cuts.

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 11 DCMR §§ 401.3 and 2101.1. 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 in seeking variances from 11 DCMR §§ 401.3 and 2101.1, 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.

Although OP noted that it could not support the relief requested, the Applicant provided testimony at the public hearing and additional information and analysis (Exhibit 44) to support the finding that the alternative, matter-of-right lot configurations for this property would be unnecessarily burdensome. The Board also noted that the ANC and nearby residents would oppose a curb cut, creating a practical difficulty in the provision of on-site parking. Therefore, the Board was not persuaded by OP's recommendation and voted to grant the relief requested.

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 PLANS AT EXHIBIT 33 AND THE FOLLOWING CONDITIONS:**

1. The Applicant shall provide a one-year bikeshare membership to all lessees on a yearly basis for a total of 10 years or a three-year membership at the initial sale of units.
2. The Applicant shall provide a one-year carshare membership to all lessees on a yearly basis for a total of 10 years or a three-year membership at the initial sale of units.
3. The Applicant shall provide one bicycle helmet to each unit at the initial sale of units or to new lessees for 10 years.

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VOTE: **3-0-2** (Marnique Y. Heath, Frederick L. Hill, and Marcie I. Cohen (by absentee vote) to APPROVE; Jeffrey L. Hinkle not participating, and 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: December 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 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.

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

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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.