

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19112 of 307 Taylor St NW LLC, pursuant to 11 DCMR § 3104.1, for a special exception from the conversion to apartment house requirements pursuant to § 336, to permit the conversion of a pre-1958 residential building into a three-unit apartment house in the R-4 District at premises 307 Taylor Street N.W. (Square 3312, Lot 44).

HEARING DATES: December 8, 2015¹ and January 12, 2016
DECISION DATE: January 12, 2016

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 4.)

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 site. The site of this application is located within the jurisdiction of ANC 4C, which is automatically a party to this application. The ANC submitted a timely report in support of the application, as revised. The ANC's report indicated that at a duly noticed and scheduled public meeting on December 9, 2015, at which a quorum was present, the ANC voted to support the application by a vote of 10:0:0. The ANC report referenced a negotiated settlement agreement entered into between the adjacent neighbors and the developers, which included significant changes to the original plans. (Exhibit 38.)

The Office of Planning ("OP") submitted a timely report recommending approval of the application (Exhibit 40) and testified in support of the application at the hearing. OP's support was based on the most recent revised plans. The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the application. (Exhibit 33.)

¹ The hearing on December 8, 2015, was postponed at the Applicant's request. (Exhibit 32.)

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Two applications for party status in opposition were submitted. One party status application was from Paulo Gusmo and Katherine Filardo, who reside at 305 Taylor Street, N.W. (Exhibit 25.) Paulo Gusmo and Katherine Filardo subsequently submitted a letter of support together with a settlement agreement entered into with the Applicant and formally withdrew their application for party status in opposition.² (Exhibit 37.) The other application for party status in opposition was from Ramona Burns and Mark Otero who reside at 303 Taylor Street, N.W. (Exhibits 26 and 27.) They did not attend the hearing or otherwise pursue their opposition after the Applicant had revised its plans. The Applicant's agent testified that he had not heard anything further from these neighbors since the plans were revised. Because Ms. Burns and Mr. Otero did not formally withdraw the request for party status nor appear at the hearing, the Board denied their party status application.

In addition to the letter of support submitted from Mr. Gusmo and Ms. Filardo (Exhibit 37), a letter in support was submitted to the record from Janis and Elaine Williams. (Exhibit 42.)

Five letters in opposition from neighbors were submitted to the record. (Exhibits 21, 28-30, and 34.) A petition in opposition with 44 signatures was also submitted to the record. (Exhibit 31.) The Applicant's agent testified that the opposition to the project was based on the original proposal and that no comments in opposition had been received since the plans were revised.

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 conversion to apartment house requirements pursuant to § 336, to permit the conversion of a pre-1958 residential building into a three-unit apartment house in the R-4 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 ANC and 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 336, 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 EXHIBIT 36.**

² A Settlement Agreement, which contained the revisions to the project, was entered into with the Applicant and Katherine Filardo, Paulo Gusmo, Janis E. Williams and Elaine D. Williams and was submitted for the record. (Exhibit 37.)

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VOTE: **4-0-1** (Marnique Y. Heath, Jeffrey L. Hinkle, Frederick L. Hill, and Peter G. May 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: January 14, 2016

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 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

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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.