

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19145 of Linden Court Partners LLC, as amended¹, pursuant to 11 DCMR § 3103.2, for variances from the FAR requirements under § 771, the lot occupancy requirements under § 772, the rear yard requirements under § 774, the residential use on an alley lot requirements under § 2507.3, and the height requirements under § 2507.4, to allow the construction of five one-family dwellings and a neighborhood-servicing retail establishment in the C-2-A District at premises 1313-1323 Linden Court N.E. (Square 1027, Lots 57, 58, 59, 60, 61, and 112).

HEARING DATE: December 22, 2015

DECISION DATE: December 22, 2015

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 5.) As for the request for amended relief, the Applicant indicated at the public hearing that it “requested this relief in the alternative” in its Prehearing Statement. (Exhibit 24.)

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") 6A and to owners of property located 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. The ANC submitted a report of support in this case. The ANC's report, dated December 11, 2015, indicated that at a duly noticed and regularly scheduled public meeting on December 10, 2015, at which a quorum was present, the ANC

¹ At the Office of Planning's recommendation, the Applicant amended its application to replace an initial request for a variance from the nonconforming structure requirements under § 2003.1 to a variance request from the residential use on an alley lot requirements under § 2507.3. The Applicant indicated at the public hearing on December 22, 2015, that it “requested this relief in the alternative” in its Prehearing Statement (Exhibit 24) and provided testimony during the hearing to support the variance request from the requirements of § 2507.3. The caption has been amended accordingly.

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voted 7-0 to support the application with one condition. (Exhibit 25.) The Board adopted the ANC's condition in this order.

The Office of Planning ("OP") submitted a timely report recommending approval of the requests for variances from FAR (§ 771), Lot Occupancy (§ 772), and Rear Yard (§ 774), but indicated that it recommended denial of the requests for relief from alley lot building (§ 2507.3) and height (§ 2507.4). In its report OP also stated: "While the applicant requested relief from § 2003, OP confirmed with OAG that the appropriate relief necessary for the proposed studio apartment use is a variance from the second clause of § 2507.3." (Exhibit 27.)

The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the application. (Exhibit 26.)

Eight letters of support from neighbors were submitted to the record. (Exhibit 24E.)

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 FAR requirements under § 771, the lot occupancy requirements under § 772, the rear yard requirements under § 774, the residential use on an alley lot requirements under § 2507.3, and the height requirements under § 2507.4, to allow the construction of five one-family dwellings and a neighborhood-servicing retail establishment in the 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 the application. Accordingly, a decision by the Board to grant this application would not be averse 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 §§ 771, 772, 774, 2507.3, and 2507.4, 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.

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 ARCHITECTURAL PLANS AT EXHIBIT 24A AND WITH THE FOLLOWING CONDITION:**

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1. The Applicant shall record a covenant in the land records for each of the properties prohibiting the owner or resident of the property from obtaining a residential parking permit.

VOTE: **3-0-2** (Marnique Y. Heath, Marcie I. Cohen, and Jeffrey L. Hinkle to APPROVE;
Frederick L. Hill not present or voting; 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 23, 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 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

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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.