

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Board of Zoning Adjustment**



**Application No. 19254 of 1612 Seventh Street NW LP**, as amended<sup>1</sup>, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions from the retail parking requirements of Subtitle C § 701.5, the retail loading requirements of Subtitle C § 901.1, the court requirements of Subtitle G § 202.1, the lot occupancy requirements of Subtitle G § 404.1, and the rear yard requirements of Subtitle G § 405.2, to allow the rehabilitation of, and addition to, a contributing historic structure for conversion to a mixed-use building with first and second floor retail uses, and eight residential units in the MU-4 Zone at premises 1612-1616 7th Street N.W. (Square 420, Lot 38).

**HEARING DATE:** September 27, 2016<sup>2</sup>

**DECISION DATE:** September 27, 2016

**SUMMARY ORDER**

**SELF-CERTIFICATION**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibits 5 (original) and 48A (revised).) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

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<sup>1</sup> The original application was filed under the Zoning Regulations (Title 11, DCMR) which were then in effect (the "1958 Zoning Regulations") but which were repealed on September 6, 2016 and replaced with new text (the "2016 Regulations"). (Exhibit 5.) The Applicant replaced its original request with an updated self-certification form under the 2016 Regulations and also amended the application by including additional relief for courts, retail loading, and retail parking. (Exhibit 48A.)

<sup>2</sup> This case was originally scheduled for the public hearing of May 10, 2016, but postponed and was also postponed from the hearing dates of June 7 and July 19, 2016. It was not heard until September 27, 2016. Consequently, because it was not heard prior to September 6, 2016 when the 2016 Regulations came into effect, the case was not vested under the 1958 Zoning Regulations and was converted to a case under the 2016 Regulations.

**BZA APPLICATION NO. 19254**  
**PAGE NO. 2**

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 Advisory Neighborhood Commission ("ANC") 6E and to owners of property located within 200 feet of the site.<sup>3</sup> The site of this application is located within the jurisdiction of ANC 6E, which is automatically a party to this application. The ANC submitted a report recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on May 3, 2016, at which a quorum was present, the ANC voted 6-0-0 to support the application. (Exhibit 36.)

The Office of Planning ("OP") submitted a timely supplemental report recommending approval of the amended application with two conditions. (Exhibit 51.) The OP report noted that the Historic Preservation Office ("HPO"), in a letter dated August 17, 2016, stated that it had no concerns with the proposal. The Applicant submitted that HPO letter to the record. (Exhibit 48C.) OP also submitted an earlier report that recommended denial for the application; however, that report was submitted before the application was revised. (Exhibit 30.) The District Department of Transportation ("DDOT") submitted two timely reports, both indicating that it had no objection to the grant of the application with conditions. (Exhibits 31 and 50.)

Letters in support were submitted by the adjacent property owner and by the Central Shaw Neighborhood Association. (Exhibits 28C and 29.)

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for special exceptions from the retail parking requirements of Subtitle C § 701.5, the retail loading requirements of Subtitle C § 901.1, the court requirements of Subtitle G § 202.1, the lot occupancy requirements of Subtitle G § 404.1, and the rear yard requirements of Subtitle G § 405.2, to allow the rehabilitation of, and addition to, a contributing historic structure for conversion to a mixed-use building with first and second floor retail uses, and eight residential units in the MU-4 Zone. 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, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2, Subtitle C §§ 701.5 and 901.1, and Subtitle G §§ 202.1, 404.1, and 405.2, 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.

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<sup>3</sup> The Board waived the 15-day posting requirement of Subtitle Y § 402.3, based on the Applicant's request to accept the seven days of posting provided by the Applicant as adequate. The Board noted that the Applicant conducted extensive outreach to the neighbors, ANC, HPRB, and the Central Shaw Neighborhood Association; therefore, the public will not be prejudiced with the waiver.

**BZA APPLICATION NO. 19254**  
**PAGE NO. 3**

Pursuant to 11 DCMR Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, 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 AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 48D AS AMENDED BY EXHIBIT 57 AND WITH THE FOLLOWING CONDITIONS:**

1. The Applicant shall designate six short-term bicycle parking spaces within public space, four long-term bicycle parking spaces for use by retail employees, and a shower and changing facility with lockers for use by all retail tenants. **Prior to the issuance of the Certificate of Occupancy**, the Applicant shall provide plans to the Zoning Administrator showing the location of the shower and changing facilities within the retail space.
2. The Applicant shall review its loading plan with DDOT.
3. The Applicant shall have minor flexibility for refinements to the approved plans, provided that zoning relief is not increased or affected, in the following respects:
  - A. Interior partition locations, the number, size, and location of units, as well as stairs and elevators are preliminary and shown for illustrative purposes only. Final layouts, design, and interior plans may vary.
  - B. The Applicant may make refinements to parking and bicycle configurations, including layout, so long as the required parking and bicycle parking complies with the size, location, access, maintenance, and operation requirements of the Zoning Regulations.
  - C. The Applicant may vary the final selection of exterior materials within the color ranges and general material types proposed, pursuant to Historic Preservation Office staff approval and based on the availability at the time of construction, without reducing the quality of materials.
  - D. The Applicant may make minor refinements to exterior details and dimensions, including belt courses, sills, bases, cornices, railings and trim, window location, size and shape, or any other changes to comply with Historic Preservation Office staff approval or that are otherwise necessary to obtain a final building permit.

**VOTE:**       **3-0-2** (Anita Butani D'Souza, Marnique Y. Heath, and Michael G. Turnbull, to APPROVE; Frederick L. Hill and Jeffrey L. Hinkle, not participating or voting.)

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

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

**ATTESTED BY:**

  
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**SARA A. BARDIN**  
**Director, Office of Zoning**

**FINAL DATE OF ORDER:** October 11, 2016

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, 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 SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, 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 SUBTITLE A § 303, 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.

**BZA APPLICATION NO. 19254**  
**PAGE NO. 5**

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.