

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19757 of 1201 Staples, LLC, as amended¹, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the residential conversion requirements of Subtitle U § 320.3, to convert an existing non-residential building to a three-unit apartment house in the RF-1 Zone at premises 1201 Staples Street N.E. (Square 4067, Lot 2).

HEARING DATES: June 6, July 11, October 3, November 28, December 19, 2018²
DECISION DATE: December 19, 2018

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibits 59 (revised), 39 and 57 (prior revised), and 5 (original).) 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.

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")

¹ The original application for special exception from the upper floor addition requirements of E § 206.1 (Exhibit 5) was revised to add special exception relief for penthouse setback under Subtitle C § 1502.1(c)(2) and the conversion provisions of Subtitle U § 301.2(e). (Exhibit 39.) The Applicant revised the application again to withdraw relief for penthouse setback and the upper floor addition requirements (Exhibit 57) and to correct the citation for conversion of a non-residential structure to Subtitle U § 320.3. (Exhibit 59.)

² The case was postponed from the hearing dates of June 6 and July 11, 2018 at the Applicant's request. On July 11, the Board granted party status to Mark Stilp and postponed the remainder of the hearing to October 3, 2018. On October 3rd, the Board granted the Applicant's third motion to postpone the hearing to allow the Applicant more time to redesign the project, to work further with the adjacent neighbors to resolve their concerns, and to present the project to the ANC. The Board denied the ANC's request to postpone the November 28th hearing but continued the hearing to allow the ANC to submit a report. The case was heard on November 28, 2018 and continued to December 19, 2018.

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5D and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 5D, which is automatically a party to this application. The ANC did not submit a report. The Applicant testified that the ANC voted in favor of the project.

The Office of Planning (“OP”) submitted two reports. In its supplemental report (Exhibit 58), OP recommended approval of the revised application that did not include penthouse setback relief, noting that the design revisions addressed OP’s concerns raised in its original report where it had recommended denial of the application. (Exhibit 48.)

The District Department of Transportation (“DDOT”) submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 31.)

On July 11, 2018 the Board granted the party status application of Mark Stilp of 1203 Staples Street, N.E. in opposition to the application. (Exhibit 46.) At the November 28, 2018 hearing, the party in opposition testified that he was withdrawing his opposition and was now in support of the revised application. In addition, Mr. Stilp indicated that he and the Applicant has entered into an agreement to handle the impacts of the development on Mr. Stilp’s solar energy system and for other matters to protect the structural integrity of his property. (Exhibit 68.) As a result, the party in opposition stated that he withdrew his opposition and was supporting the application. (Exhibit 67.)

The Board also heard testimony in opposition to the application from Jaqueline Vialpando and received letters in opposition from Jacqueline Vialpando and Rosemary Richardson. (Exhibit 37.) Mark Stilp and Kevin Horgan originally submitted letters in opposition, but later submitted letters in support. (Exhibits 34, 50, 66, and 67.)

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 a special exception under the residential conversion requirements of Subtitle U § 320.3, to convert an existing non-residential building to a three-unit apartment house in the RF-1 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 reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2, and Subtitle U § 320.3, 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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Pursuant to 11 DCMR Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 62.**

VOTE: **5-0-0** (Frederick L. Hill, Carlton E. Hart, Lesylleé M. White, Lorna L. John, and Peter G. May to APPROVE.)

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 26, 2018

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.

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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.