

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19772 of 1729 T Street TF LLC, as amended¹ pursuant to 11 DCMR Subtitle X, Chapter 10, for variances from the closed court requirements of Subtitle F § 202.1, the floor area ratio requirements of Subtitle F § 302.1, the lot occupancy requirements of Subtitle F § 304.1, and the Inclusionary Zoning unit proportionality requirements of Subtitle C § 1005.1, to construct a five-unit apartment house in the RA-2 Zone at premises 1729 T Street, N.W. (Square 151, Lot 15).

HEARING DATES: June 13, 2018 and July 25, 2018
DECISION DATE: July 25, 2018

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 7 – Self-Certification form; Exhibit 48 – Post-hearing Statement.) 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") 2B and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2B, 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 9, 2018, at which a quorum was present, the ANC voted 9-0-0 to support the application. (Exhibit 33.)

¹ The Applicant amended the application at the July 25, 2018 continued hearing by adding a variance from the Inclusionary Zoning unit proportionality requirements of Subtitle C § 1005.1. (See Exhibit 48 – Applicant's Post-Hearing Statement.) The Board accepted the amendment and the caption has been changed accordingly.

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The Office of Planning (“OP”) submitted a timely report, dated June 1, 2018, recommending approval of the lot occupancy and court relief, but denial of relief from the floor area ratio (“FAR”) requirements. (Exhibit 41.) After the hearing on June 13, 2018, the Applicant amended the application to opt in to the Inclusionary Zoning (“IZ”) program (pursuant to Subtitle C § 1001.2(e)) which increases the matter of right FAR from the underlying 1.8 to 2.16, and decreases the amount of FAR relief needed, and proposed, in this application. In providing the IZ unit, the Applicant requested an additional variance from the proportionality requirements of Subtitle C § 1005.1, to allow the IZ unit to be a studio rather than a two-bedroom unit. OP filed a supplemental report dated July 18, 2018, and presented testimony at the July 25, 2018 hearing, recommending approval of the amended application. (Exhibit 50.)

The District Department of Transportation (“DDOT”) submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 36.)

One letter of support was submitted into the record from the 1731 T Street NW Condo Association. (Exhibit 46.) Testimony was presented by adjacent neighbors - a resident at 1725 T Street and a representative of the 1731 T Street Condo Association - both of whom were generally in support of granting the zoning relief. (See comments at Exhibit Nos. 53 and 51 respectively.)

As directed by 11 DCMR Subtitle X § 1002.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 1002.1 for area variances from the closed court requirements of Subtitle F § 202.1, the floor area ratio requirements of Subtitle F § 302.1, the lot occupancy requirements of Subtitle F § 304.1, and the Inclusionary Zoning unit proportionality requirements of Subtitle C § 1005.1, to construct a five-unit apartment house in the RA-2 Zone. 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 Subtitle F §§ 202.1, 302.1, and 304.1, and Subtitle C § 1005.1, the Applicant has met the burden of proof under 11 DCMR Subtitle X § 1002.1, 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 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.

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It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 52 – PRESENTATION FOR BZA CASE NO. 19772, 1729 T STREET NW (JULY 25, 2018).PDF.**

VOTE: 5-0-0 (Frederick L. Hill, Peter G. May, Lesylleé M. White, Lorna L. John, and Carlton E. Hart 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: August 3, 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

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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 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.