

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19828 of 3423 Holmead Place LLC, as amended,¹ pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under the non-residential conversion requirements of Subtitle U § 320.3, and under Subtitle E § 5201 from the minimum court requirements of Subtitle E § 203.1 and the nonconforming structure requirements of Subtitle C § 202.2, and pursuant to Subtitle X, Chapter 10, for a variance from the front setback requirements of Subtitle B § 315.1(c), to convert an existing church to a seven-unit apartment house in the RF-1 Zone at premises 3423 Holmead Place N.W. (Square 2834, Lot 163).

HEARING DATES: October 17, 2018 and January 16, 2019
DECISION DATES: November 28, 2018 and January 30, 2019

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 39A (Revised), as amended by plans in Exhibit 51 and withdrawal of relief in Exhibit 55; Exhibits 11 and 15 (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") 1A and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1A, which is automatically a party to this application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on

¹ The Applicant originally requested relief from the front setback provisions of Subtitle B § 315.1(c) as a special exception, but amended the application to request that relief as an area variance instead. (Exhibit 39A.) On November 28, 2018, the Board denied variance relief for number of stories under Subtitle E § 303.1 and reopened the record to hold a continued hearing on this case. The Applicant subsequently submitted revised plans no longer requiring that area of relief (Exhibit 51) and a letter clarifying that it thereby withdraws its request for relief from Subtitle E § 303.1. (Exhibit 55.) The caption has been revised accordingly.

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Board of Zoning Adjustment
District of Columbia
CASE NO.19828
EXHIBIT NO.56

BZA APPLICATION NO. 19828
PAGE NO. 2

October 10, 2018, at which a quorum was present, the ANC voted 4-3-0 to support the application. (Exhibit 42.) The ANC submitted a supplemental written report, indicating that it considered the Applicant's revised plans at a regularly scheduled, properly noticed public meeting on January 9, 2019 and voted 12-0-0 in support of the application. (Exhibit 52.)

The Office of Planning ("OP") submitted two reports for the record, both recommending denial of variance relief for number of stories under Subtitle E § 303.1 and recommending approval of all other areas of requested relief. (Exhibits 37 and 48.) The Board denied the request for variance relief under Subtitle E § 303.1, and it was subsequently withdrawn by the Applicant. (Exhibits 51 and 55.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the application. (Exhibit 33.)

The Board received one letter in support of the application. (Exhibit 40.) At the public hearing of October 17, 2018, William Jordan testified in opposition. On November 28, 2018, the Board denied a request to reopen the record filed by Mr. Jordan on November 6, 2018. The request indicated that Mr. Jordan wished to file a request for party status; however, the Board noted that the deadline to request party status had passed and that Mr. Jordan had been given the opportunity to testify on the application at the prior public hearing.

Variance Relief

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 an area variance from the front setback requirements of Subtitle B § 315.1(c). 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 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.

Special Exception Relief

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 under the non-residential conversion requirements of Subtitle U § 320.3, and under Subtitle E § 5201 from the minimum court requirements of Subtitle E § 203.1 and the nonconforming structure requirements of Subtitle C § 202.2. No parties appeared at the

BZA APPLICATION NO. 19828
PAGE NO. 3

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 that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map and that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. The Board further concludes that any other specified conditions for special exception relief have been met, pursuant to Subtitle X § 901.2(c).

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 51.**

VOTE: 4-0-1 (Frederick L. Hill, Lorna L. John, Lesylleé M. White (by absentee), and Anthony J. Hood (by absentee) to APPROVE; Carlton E. Hart not participating)

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

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

ATTESTED BY:



SARAH A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: February 1, 2019

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

BZA APPLICATION NO. 19828
PAGE NO. 4

§ 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.

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.