

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19165-A of 3317 16th Street LLC, pursuant to 11 DCMR §§ 3103.2 and 3104.1, for variances from the off-street parking requirements under § 2101.1, the parking aisle width requirements under § 2117.5, and the loading berth requirements under § 2201.1, and a special exception from the HS Overlay requirements under § 1320.4(f), to convert a vacant church into a new four-story, mixed-use commercial and residential building in the HS-A/C-2-A District at premises 1301 H Street N.E. (Square 1027, Lot 156).

HEARING DATE: January 26, 2016

DECISION DATE: January 26, 2016

CORRECTED SUMMARY ORDER¹

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 5.)

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 in support of the application, dated January 21, 2016, indicating that at a duly noticed and scheduled public meeting on January 14, 2016, at which a quorum was in attendance, the ANC voted unanimously (7-0) in support of the application, with conditions. (Exhibit 37.) The Applicant testified at the public hearing on January 26, 2015 that it accepts the ANC's proffered conditions.

The Office of Planning ("OP") submitted a timely report on January 21, 2016, recommending approval of the loading and aisle width variances, as well as the HS Overlay special exception, but indicating that it could not support the variance for off-street parking. (Exhibit 33.) OP also proposed conditions, indicating that it would recommend approval if Applicant provided five parking spaces, sufficient to meet the residential parking requirements, instead of the two parking

¹ This Corrected Summary Order was issued to add an inadvertently omitted condition offered by the ANC and accepted by the Applicant. This is the only change to the Order as originally issued.

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spaces proposed. At the public hearing, the Applicant provided testimony as to why it would be practically difficult to configure the footprint of the building to allow for the additional parking spaces recommended by OP. In addition, the Applicant noted that the design of the project is supported by the ANC and that the current design is the product of multiple meetings with the ANC. Further, the Board determined that the additional three parking spaces would have a detrimental impact on the design of the proposed structure and were not necessary to mitigate the potential impacts on parking, especially in light of the Transportation Demand Management (“TDM”) measures proposed by the Applicant. Accordingly, the Board was not persuaded by OP’s recommendation to deny variance relief and OP’s proposal to require the Applicant to provide five parking spaces on-site.

The District Department of Transportation (“DDOT”) submitted a timely report indicating that it had no objection to the application, subject to two conditions. (Exhibit 34.) DDOT also testified at the public hearing, specifically noting its support of the parking variance and raising issues about loading that will be further discussed during the Public Space process. The Applicant testified that it accepted DDOT’s conditions, and accordingly, the Board adopted the two conditions as part of this order.

Variance Relief

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 off-street parking requirements under § 2101.1, the parking aisle width requirements under § 2117.5, and the loading berth requirements under § 2201.1. 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 in seeking variances from 11 DCMR §§ 2101.1, 2117.5, and 2201.1, 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.

Special Exception Relief

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception from the HS Overlay requirements under § 1320.4(f). 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 filed in this case, the Board concludes that the Applicant has met the burden of proof, pursuant

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to 11 DCMR §§ 3104.1 and 1320.4(f), 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.

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 PLANS AT EXHIBIT 35 AND THE FOLLOWING CONDITIONS:**

1. Residential Parking Permit restrictions shall be in place.
2. Provided the Applicant receives DCHD approval, the Applicant shall record a covenant in the land records requiring that each lease or contract for sale of a residential unit require the tenant or owner of the unit update their address information with the District of Columbia Department of Motor Vehicles within 60 days of the settlement date and as required under D.C. law.
3. The building shall use an H Street, N.E. address.
4. Any construction or related work in public space taking place on a Saturday shall take place between the hours of 9:00 a.m. and 7:00 p.m. only.
5. The Applicant shall use a consistent design on the 13th Street, N.E. side of the building that face row houses.
6. The Applicant shall provide, as a one-time incentive, each initial purchaser (one per household) a bicycle helmet, for a total of nine helmets.
7. The Applicant shall offer a one-year Capital Bikeshare and Car share membership for each initial residential unit (one per household) for a five-year period.
8. The Applicant shall provide a repair station within the bike room.
9. The Applicant shall post all TDM commitments online for a one-year period. The source will also include links to CommuterConnections.com, goDCgo.com, WMATA Metrobus routes, DC Bicycle maps, and other useful information in support of car-free urban living.
10. The Applicant shall install at least three short-term bicycle parking spaces in public space, pending approval from the Public Space Committee.

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VOTE: 3-0-2 (Marnique Y. Heath, Frederick L. Hill, and Michael G. Turnbull to APPROVE; Jeffrey L. Hinkle not participating, and 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: April 7, 2016

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 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL 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 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

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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.