

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 17578-A of Hartford Street LLC, pursuant to 11 DCMR §§ 3104.1 and 3103.2, for a special exception to construct a new residential development consisting of sixteen (16) row dwellings under sections 353 and 410, and a variance from the floor area ratio requirements under section 402, in the R-5-A (R-3 District – Vested) District at premises 2700 block of Hartford Street, S.E. (Square 5727, Lots 149-154).

HEARING DATE:	March 13, 2007
DECISION DATE:	April 3, 2007
DECISION ON MODIFICATION DATE(S):	July 1, 2008, August 1, 2008

SUMMARY ORDER
MODIFICATION OF APPROVED PLANS

SELF-CERTIFIED

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

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) 8B and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 8B, which is automatically a party to this application. ANC 8B submitted a report in support of the application. The Office of Planning (OP) submitted a report in support of the application.

REQUEST FOR MODIFICATION OF APPROVED PLANS

On June 4, 2008, the Applicant submitted a letter with accompanying filing fee requesting a modification to the plans approved in BZA Application No. 17578. The Applicant also requested a waiver from the time limit for filing a request for modification of plans under subsection 3129.3. Copies of the letter were simultaneously served on the Office of Planning and Advisory Neighborhood Commission 8B. The original application (No. 17578), was approved by the Board by a vote of 3-0-2, on April 4, 2007.

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The Applicant's modification request notes that BZA Order No. 17578, granted the application pursuant to Exhibit Nos. 22 and 31 – Plans. The Applicant filed a building permit application with the Department of Consumer and Regulatory Affairs (DCRA) based the project approved under Order No. 17578. During DCRA's review of the project it was discovered that the Applicant needed variance relief from the floor area ratio (FAR) requirements under section 402, based on the property's then R-5-A zoning designation. The Applicant proffered that the initial computation of FAR was based on a lot size of 34,757 sq. ft. It was later discovered, following a D.C. Surveyor's Office review that the actual lot size is 32,266 sq. ft. Under the former larger lot size the average FAR for 16 units was 0.89 which is below the 0.9 maximum FAR allowed. During this time frame the zoning of the property changed from R-5-A to R-3 as a result of the Zoning Commission's set-down of ZC Case No. 08-12, on July 28, 2008.

The Office of Planning (OP), in a supplemental report, dated June 24, 2008, states that the R-3 zoning is now vested. OP supported the modification of plans noting that the proposed development will be consistent with the uses and form of development permitted in the R-3 District, including FAR, although there is no FAR requirement in the R-3 District.

The Board did not receive any objection to the requested modification of plans from any party. Accordingly, a decision by the Board to grant this modification would not be adverse to any party. The Board further finds that the requested modification is minor in nature and does not change the material facts that the Board relied upon in approving the application.

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that the request for modification of approved plans in Order No. 17578 be **GRANTED** pursuant to Exhibit No. 39 – Sheet A1.5 Amended Plan.

VOTE (APRIL 4, 2007) ON APPLICATION NO. 17578:

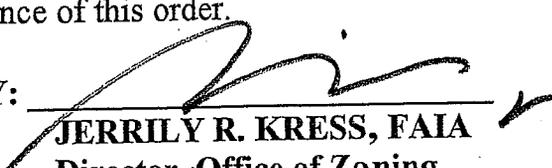
3-0-2 (Carol J. Mitten, Curtis L. Etherly, Jr., and John A. Mann III to approve; Ruthanne G. Miller and the third mayoral appointee not voting, not having participated in the case.)

**VOTE (AUGUST 1, 2008) ON MODIFICATION OF APPROVED PLANS AND
WAIVER OF TIME LIMIT FOR FILING:**

3-0-2 (Ruthanne G. Miller, Shane L. Dettman and Mary Oates Walker to approve. Marc D. Loud and the Zoning Commission member not present, not voting.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
Each concurring member approved the issuance of this order.

ATTESTED BY: _____


JERRILY R. KRESS, FAIA
Director, Office of Zoning

FINAL DATE OF ORDER: AUG 01 2008

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

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 PURPOSES OF SECURING A BUILDING PERMIT.

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, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

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, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS

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ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER. RSN

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As Director of the Office of Zoning, I hereby certify and attest that on August 1, 2008, a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

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Marion Barry, City Councilmember
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Matthew LeGrant, Zoning Administrator
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rsn

ATTESTED BY:


JERRILY R. KRESS, FAIA
Director, Office of Zoning