

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 17594 of Minshall Stewart Properties LLC on behalf of Donohoe Wilmington Associates LP, pursuant to 11 DCMR § 3103.2, for a variance from the court width requirements under section 776, a variance from the transferable development rights forty-five degree setback requirement under subsection 1709.20, and a special exception from section 2516 for multiple buildings on a single record lot, to allow the redevelopment of an office and retail building in the C-3-C District at premises 2175 K Street, N.W. (Square 73, Lots 883 and 884).

Note: The Applicant withdrew a request for a variance from section 2201, and the Board denied variance relief from subsection 2516.7.

HEARING DATES: April 17, 2007, June 19, 2007, November 20, 2007, January 15, 2008

DECISION DATE: February 12, 2008

SUMMARY ORDER

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) 2A, the Office of Planning (OP), and to owners of property within 200 feet of the site. The OP submitted reports in support of the application.

ANC 2A originally opposed the application, but, at a regularly-scheduled and properly-noticed meeting on February 20, 2008, with a quorum present, the ANC voted to withdraw this opposition. The ANC filed a letter dated April 4, 2008 with the Board memorializing its withdrawal of opposition and noting that such withdrawal is based on the Applicant's representation that it will abide by the cooperation agreements and construction management agreement it has entered into with the other former opposition parties. *See*, Exhibit No. 71.

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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 for a variance pursuant to 11 DCMR §§ 3103.2. The opposition parties, after having entered into Cooperation Agreements and a Development and Construction Management Agreement with the Applicant, withdrew their opposition to the application. As such, 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 OP and ANC reports filed in this case, the Board concludes that the Applicant has met the burden of proving under 11 DCMR §§ 3103.2, 776 and 1709.20, 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.

The Board further concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 2516, and 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.

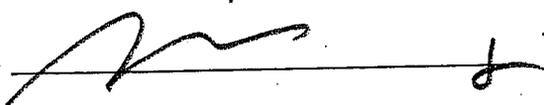
Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is not prohibited by law. It is therefore **ORDERED** that this application be **GRANTED** with the following **CONDITIONS**:

1. The project shall be constructed in accordance with the architectural plans marked as Exhibit 60 in the record.
2. The project shall include the construction and maintenance of a green roof on the roof of the eighth floor of the office building measuring approximately 2,200 square feet.

VOTE: 4-0-1 (Ruthanne G. Miller, Michael G. Turnbull, Marc D. Loud and Mary Oates Walker to Approve, Shane L. Dettman opposed to the motion)

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

ATTESTED BY: _____


JERRILY R. KRESS, FAIA
Director, Office of Zoning

FINAL DATE OF ORDER: APR 09 2008

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

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.

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

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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. rsn

GOVERNMENT OF THE DISTRICT OF COLUMBIA
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As Director of the Office of Zoning, I hereby certify and attest that on April 9, 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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JERRILY R. KRESS, FAIA
Director, Office of Zoning 