

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 17617-B of First Congregational United Church of Christ, et al., pursuant to 11 DCMR §§ 3103.2, and 3104.1, for a variance from the off-street loading facility requirements under section 2201, a special exception from the roof structure requirements under sections 411 and 770.6(b), and a special exception for a waiver of the rear yard requirements under section 774, to allow the construction of a mixed use church/social services and general commercial/office development in the DD/C-4 District at premises 945 G Street, N.W. (Square 375, Lot 823).

Hearing Date (Application No. 17617): June 12, 2007
Decision Date (Application No. 17617): June 12, 2007 (Bench Decision)
Final Issue Date (Application No. 17617): June 15, 2007
Modification Decision Date: January 8, 2008

**CORRECTED* SUMMARY ORDER ON
REQUEST FOR MODIFICATION OF APPROVED PLANS**

***Note:** This order corrects BZA Order No. 17617-A, by stating the relevant application number (17617) as shown underlined above.

SELF-CERTIFIED

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

BACKGROUND

The original Application for this property was BZA Application No. 17617, pursuant to 11 DCMR §§ 3103.2 and 3104.1, for a variance from the off-street loading facility requirements under section 2201, a special exception from the roof structure requirements under sections 411 and 770.6(b), and a special exception for a waiver of the rear yard requirements under section 774, to allow the construction of a mixed use church and residential development on the subject property. The alternative relief originally advertised in this application, a variance from the side yard requirements under subsection 775.5, was eliminated. Advisory Neighborhood Commission 2C (ANC 2C) submitted a report in support of the application. The Office of Planning also submitted a report in support of the application. The Board of Zoning Adjustment heard and decided the case by bench decision on June 12, 2007, and issued a summary order on June 15, 2007.

441 4th Street, N.W., Suite 200/210-S, Washington, D.C. 20001

Telephone: (202) 727-6311

Facsimile: (202) 727-6072

E-Mail: dcoz@dc.gov

Web Site: www.dcoz.dc.gov

MODIFICATION

Subsection 3129.7 of the Zoning Regulations states that "Approval of requests for modification of approved plans shall be limited to minor modifications that do not change the material facts the Board relied upon its [sic] approving the application."

In this modification, the Applicant seeks to replace the above-grade residential use in the original project with general commercial office space, while maintaining relatively unchanged the proposed church and social service uses on the first two levels of the project. The proposed changes are minor and that the areas of relief needed for the modified project are virtually identical to the original project because the subject property continues to be affected by the same confluence of factors that the Board has already determined result in an extraordinary and exceptional condition on the subject property. With the proposed modification, this practical difficulty is the same. Furthermore, due to the change in above-grade use from residential to office, the project now fully complies with the roof structure requirements, which eliminates the need for a special exception from sections 411 and 770.6(b), and the project no longer needs relief from the 55-foot loading berth requirement because no such berth is required for the proposed office use.

The table below sets forth the elimination or reduction of each area of relief:

	Permitted / Required	BZA Order No. 17617	Proposed Modification
Loading Facilities	<u>Approved Project:</u> Berths: 1 @ 55 feet 1 @ 30 feet Platforms: 1 @ 200 square feet 1 @ 100 square feet Service/Delivery: 2 @ 20 feet	Berths: 1 @ 30 feet Platforms: 1 @ 200 square feet 1 @ 100 square feet Service/Delivery: 1 @ 20 feet	Berths: 2 @ 30 feet Platforms: 1 @ 300 square feet Service/Delivery: 1 @ 20 feet
	<u>Modified Project:</u> Berths: 2 @ 30 feet Platforms: 2 @ 100 square feet Service/Delivery: 1 @ 20 feet	*The loading berth and service delivery space in the previously approved project did not satisfy the minimum width requirements because they extended into the adjacent lot.	*While the number of loading berths now complies with the Zoning Regulations, the berths still extend into the adjacent lot and therefore require variance relief on that basis.

Rear Yard Depth	22.9 feet	5 feet	5 feet
Roof Structures	All rooftop structures must be placed within a single enclosure having walls of equal height.	Rooftop penthouse had two separate levels in order to comply with the one-to-one setback requirement.	All rooftop structures will be placed within a single enclosure having walls of equal height, so relief from this provision is no longer necessary.

Since the approval granted in BZA Order No. 17617, the District's residential real estate market has experienced a downturn. As a result, the Applicant has elected to move forward with a revised mixed-use project to ensure economic feasibility for the project. The proposed modification is in keeping with the design of the approved project.

Advisory Neighborhood Commission 2C submitted a report indicating that it voted unanimously to support the modified project. The Office of Planning did not submit a report but provided testimony at the public meeting. The Office of Planning noted no objection to the proposed modification.

There were no other parties to the application.

CONCLUSIONS OF LAW

The Board, after reviewing the Applicant's written submission and plans, as required by 11 DCMR § 3129.5, concludes that the modifications requested are minor and do not change the material facts upon which the Board relied in approving the application. See, 11 DCMR § 3129.7. Therefore, the Board concludes that the Applicant's request for permission to modify its plans meets the requirements set forth in the regulations for a minor modification. It is hereby **ORDERED** that the motion is **GRANTED** and the plans (Exhibit 33) are approved.

VOTE: 3-0-2 (Ruthanne G. Miller, Marc D. Loud, and Anthony J. Hood (by absentee ballot) to grant; the NCPC and third mayoral appointee not present not voting)

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: January 14, 2008

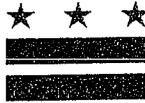
UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

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 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.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



BZA APPLICATION NO. 17617-B (Corrected Order)

As Director of the Office of Zoning, I hereby certify and attest that on May 8, 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:

Christine Moseley Shiker, Esq.
Holland & Knight, LLP
2099 Pennsylvania Avenue, N.W., Suite 100
Washington, D.C. 20006

Kevin Riegler
c/o 701 10th Street, LLC
4725 Wisconsin Avenue, N.W., Suite 200
Washington, D.C. 20016

Chairperson
Advisory Neighborhood Commission 2C
P.O. Box 26182
Washington, D.C. 20001

Single Member District Commissioner 2C03
Advisory Neighborhood Commission 2C
P.O. Box 26182
Washington, D.C. 20001

Matthew LeGrant, Zoning Administrator
Dept. of Consumer and Regulatory Affairs
Building and Land Regulation Administration
941 North Capitol Street, N.E., Suite 2000
Washington, D.C. 20002

Jack Evans, City Councilmember
Ward Two
1350 Pennsylvania Avenue, N.W., Suite 106
Washington, D.C. 20004

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Jill Stern, Esquire
General Counsel
Department of Consumer and Regulatory Affairs
941 North Capitol Street, N.E., Suite 9400
Washington, D.C. 20002

ATTESTED BY:



JERRILY R. KRESS, FAIA
Director, Office of Zoning

rsn