

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 17723 of Bozzuto Development Company, pursuant to 11 DCMR §§ 3103.2 for a variance from the parking requirements under subsection 2101.1, a variance from the loading requirements under subsection 2201.1 and variances from the lot occupancy and nonconforming structure requirements under subsections 772 and 2001.3, respectively,¹ to allow the construction of a residential building in the DD/C-2-C District at premises 460 New York Avenue, N.W. (Square 515N, Lot 828).

HEARING DATE: February 26, 2008
DECISION DATE: February 26, 2008 (Bench Decision)

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) 6C and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6C, which is automatically a party to this application. ANC 6C submitted a report expressing no opposition to the application. The Office of Planning (OP) submitted a report in support of the application.

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 for a variance pursuant to 11 DCMR § 3103.2. 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.

¹ Applicant originally sought special exception relief from the penthouse requirements under subsection 400.7, but withdrew this request at the hearing. Applicant submitted into the record at that time an alternative roof plan (Drawing A1.1a) for which no relief is required.

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Based upon the record before the Board and having given great weight to the ANC and Office of Planning reports filed in this case, the Board concludes that the Applicant has met the burden of proving under 11 DCMR §§ 3103.2, (2101, 2201, 772, and 2001) 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.

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 application be **GRANTED, SUBJECT** to the following **CONDITION**:

Pursuant to 11 DCMR 3125.8, the Applicant shall carry out construction only in accordance with the plans approved by the Board, except that Applicant shall have the following **flexibility**:

1. Applicant may provide between a minimum of 54 and a maximum of 72 parking spaces.
2. Applicant may reduce the number of units from 81 to a lesser amount.
3. Applicant may modify the architectural embellishment reflected on the approved roof plan, Alternate Roof Plan (Drawing A1.1a), to be consistent with approval of the Historic Preservation Review Board.

The above flexibility is granted to the extent that any modifications do not increase any of the areas of relief granted by the Board nor create any new areas of relief.

VOTE: 4-0-1 (Ruthanne G. Miller, Shane L. Dettman, Mary Oates Walker and Marc D. Loud to approve; No Zoning Commission Member participating)

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

Each concurring member approved the issuance of this order.

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ATTESTED BY:



JERRILY R. KRESS, FAIA
Director, Office of Zoning

FINAL DATE OF ORDER: MAR 28 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.

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.

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DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED.
VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

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As Director of the Office of Zoning, I hereby certify and attest that on **MARCH 28, 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 who appeared and participated in the public hearing concerning the matter and to each public agency listed below:

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ATTESTED BY:


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Director, Office of Zoning

TWR