

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 17741 of Fort Lincoln – Eastern Avenue LLC, pursuant to 11 DCMR §§ 3104.1 and 3103.2, for a special exception under section 353 (New Residential Development) and section 2516 (Theoretical Lot), and variance relief from the floor area ratio and side yard requirements under section 2516, to construct 56 residential dwelling units (28 stacked townhouses in 4 separate buildings) in the R-5-A and R-5-D Districts on property bounded by Bladensburg Road, N.E., Eastern Avenue, N.E., and Fort Lincoln Drive, N.E. (Square 4325, Lots 44, 802 and Parcel 174/15).

SUMMARY ORDER

HEARING DATE: April 1, 2008

DECISION DATE: April 8, 2008

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. The Applicant modified the requested variance relief at the public hearing.

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) 5A and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 5A, which is automatically a party to this application. The ANC 5A12 Single Member District Commissioner testified in support of the application. However, no official report from ANC 5A was filed in the record of this case. 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 pursuant to § 3104.1, for special exceptions under sections 353 and 2516, and a variance pursuant to § 3103.2 from the requirements of section 2516. 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 report, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 353, and 2516 that the requested relief can be granted, 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.

Based upon the record before the Board, the Board further concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2 and 2516, 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 this application (pursuant to Exhibit 23 - Plans) be **GRANTED**.

VOTE: 4-0-1 (Ruthanne G. Miller, Shane L. Dettman, Mary Oates Walker and Michael G. Turnbull to approve.)

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: APR 09 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. RSN

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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:

Paul A. Tummonds, Jr., Esq.
Pillsbury Winthrop Shaw Pittman LLP
2300 N Street, N.W.
Washington, D.C. 20037-1128

Chairperson
Advisory Neighborhood Commission 5A
1322 Irving Street, N.E.
Washington, D.C. 20017

Single Member District Commissioner 5A12
Advisory Neighborhood Commission 5A
1322 Irving Street, N.E.
Washington, D.C. 20017

Harry Thomas, Jr., City Councilmember
Ward Five
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

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

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Jill Stern, Esq.
Department of Consumer and Regulatory Affairs
941 N. Capitol Street, N.E.
Washington, D.C. 20002

rsn

ATTESTED BY:



JERRILY R. KRESS, FAIA
Director, Office of Zoning