

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 17831 of Georgetown Strategic Capital, as amended, pursuant to 11 DCMR § 3103.2, for a variance from the lot occupancy requirements under section 772, a variance from the rear yard requirements under section 774, a variance from the required public space at ground level under section 633 and a variance from the prohibition of driveways that provide access from a pedestrian street to required parking spaces or loading berths under subsection 1903.2, or in the alternative, a special exception under section 1906.1 from the prohibition of driveways that provide access from a pedestrian street to required parking spaces or loading berths under subsection 1903.2 to construct a new multiple residence building with ground level commercial uses, in the ARTS/C-3-A and ARTS/CR Districts on the southwest corner of the intersection of 14th and U Streets, N.W. (Square 205, Lots 70, 71, 73, 830 and 831).

Note: The applicant amended the application to remove the originally requested variance relief for height, floor area ratio and off-street loading and to add a variance from the required public space at ground level. The Board granted the requested parking relief as a special exception under §1906.1 for relief from the requirements under section 1903.2.

HEARING DATE: November 5, 2008
DECISION DATE: November 5, 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) 2B and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2B which is automatically a party to this application. ANC 2B submitted a report and testified in support of the application. The Office of Planning (OP) submitted a report in support of granting the three variances. At the hearing, the OP staff person requested additional time for OP to review the special exception for the driveway. The Board determined that it had all the information it needed to decide the case and that a further report from OP was not necessary. Prior to the end of the hearing, the only party to the application, Phyllis Klein, changed from a party in opposition to a party in support.

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 § 3103.2, from the variance requirements of sections 772, 774 and 633 and pursuant to § 3104.1 for the special exception under § 1906.1 for relief from the requirements under section 1903.2. 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.

Based upon the record before the Board, and having given great weight to the OP and ANC reports, the Board concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2 and §§ 772, 774 and 633 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.

Based upon the record before the Board, the Board further concludes that the applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 1906.1, that the requested relief can be granted as being in harmony with the general purpose and intent of the 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 § 3100.5, 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 No. 28, Plans, as modified by the two additional sheets marked as Exhibit No. 40) be **GRANTED**.

VOTE: 3-0-2 (Shane L. Dettman, Ruthanne G. Miller and Gregory N. Jeffries to approve; Marc D. Loud and Mary Oates Walker not participating, 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: NOV 13 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

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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.

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As Director of the Office of Zoning, I hereby certify and attest that on **NOVEMBER 13, 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:

Norman M. Glasgow, Jr., Esq.
Holland & Knight, LLP
Suite 100
2099 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

Farid Srour
Georgetown Strategic Capital
1919 Pennsylvania Avenue, N.W., Suite 300
Washington, D.C. 20006

Chairperson
Advisory Neighborhood Commission 2B
9 Dupont Circle, N.W.
Washington, D.C. 20036

Single Member District Commissioner 2B09
Advisory Neighborhood Commission 2B
9 Dupont Circle, N.W.
Washington, D.C. 20036

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

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Phyllis D. Klein
1910 Treto Way, N.W.
Washington, D. C. 20009

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

Bennett Rushkoff, Esquire
Acting 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

TWR