

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Board of Zoning Adjustment**



**Application No. 17930 of Future Studios, LLC**, pursuant to 11 DCMR § 3103.2, for a variance from the off-street parking requirements of subsection 2101.1, and a variance from the alley width requirements under subsection 2507.3, to allow the renovation and alteration of an existing building on an alley lot for use as a one-family dwelling and artist studio, in the R-5-B District at premises rear 1469 Harvard Street, N.W. (Square 2670, Lot 819).

**HEARING DATES:** June 2 and July 14, 2009

**DECISION DATE:** July 14, 2009

**SUMMARY ORDER**

**SELF CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 4)

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) 1A and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1A, which is automatically a party to this application. ANC 1A filed a report in support of the application, indicating that the ANC had voted unanimously to recommend approval of the application at a regularly scheduled meeting on June 10, 2009, at which a quorum was present.<sup>1</sup> (Exhibit 26).

The Office of Planning (OP) submitted a report indicating that it did not support variance relief to allow conversion of the second floor of the existing alley lot carriage house to a single-family dwelling.<sup>2</sup> OP also stated that it did not object to area variance relief from

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<sup>1</sup> The ANC's report in Exhibit 26 corrected a previously filed report that was to be disregarded. (Exhibit 24)

<sup>2</sup> While the application was for an area variance for the conversion to a single-family dwelling and artist studio, OP stated that it believed that a use variance was the appropriate form of zoning relief to allow the requested use and that the Applicant had not met the burden, in OP's opinion, for a use variance. At the hearing the Applicant

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the off-street parking requirements should the Board approve a use variance. OP's report also indicated that the Applicant met with OP and the District's Department of Transportation (DDOT) in May 2009 at which meeting DDOT did not indicate any concerns with the application. (Exhibit 27).

The District of Columbia Fire and Emergency Medical Service (FEMS) submitted a report, dated May 11, 2009, indicating that FEMS had evaluated the application and recommended that the building meet applicable fire code requirements, including being equipped with an automatic sprinkler system. FEMS also recommended that the address be unique and visible from the street and/or public alley and that both public alleys should have posted visible and marked "Fire Lane" parking signs. (Exhibit 27, attachment 3).

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, for a use variance from § 2507.3 and for an area variance from § 2101.1. 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 filed in this case, the Board concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2 and 2507.3, that there exists an exceptional or extraordinary situation or condition related to the property that creates an undue hardship 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.<sup>3</sup>

Based upon the record before the Board and having given great weight to the OP and ANC reports filed in this case, the Board also concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2 and 2101.1, 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.

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addressed the use variance test. The Board agreed with OP that the appropriate form of relief was a use variance and found that the Applicant had met that burden.

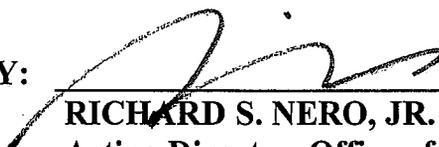
<sup>3</sup> As heretofore mentioned, the Board agreed with OP that the Applicant was required to meet the use variance standard with respect to the variance from § 2507.3, while the variance from § 2101.1 was an area variance.

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 10 – Plans) be **GRANTED**.

**VOTE:** 3-0-2 (Shane L. Dettman, Marc D. Loud, Michael G. Turnbull, to APPROVE. Two mayoral appointees (vacant), not participating, not voting.)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**  
A majority of the Board members approved the issuance of this order.

ATTESTED BY:

  
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**RICHARD S. NERO, JR.**  
Acting Director, Office of Zoning

**FINAL DATE OF ORDER:**       JUL 20 2009      

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

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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, STATUS AS A VICTIM OF AN INTRAFAMILY OFFENSE, 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**



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As Acting Director of the Office of Zoning, I hereby certify and attest that on July 20, 2009, 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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Chairperson  
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2905 11<sup>th</sup> Street, N.W.  
Washington, D.C. 20001

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Advisory Neighborhood Commission 1A  
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**ATTESTED BY:**

  
**RICHARD S. NERO, JR.**  
**Acting Director, Office of Zoning**