

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 17945 of M. Sikder, pursuant to 11 DCMR § 3104.1, for a special exception to allow the construction of an eight (8)-unit apartment house under section 353, in the R-5-A District at premises 932 Bellevue Street, S.E. (Square 5924, Lots 141, 142, and 143).

HEARING DATE: July 21, 2009

DECISION DATE: July 28, 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) 8E and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 8E, which is automatically a party to this application. Two letters of support, the first dated June 2, 2008, and the other dated July 23, 2009, were submitted by the Advisory Neighborhood Commission (ANC) 8E Commissioner who represents the Single Member District Member (SMD) 8E02.¹ (Exhibits 24(b) and 28). The Office of Planning (OP) submitted a report in support of the relief sought.² (Exhibit 25)³

¹ While the Board acknowledged the SMD Commissioner's support in their deliberations, the letters did not rise to the level of an ANC report to which great weight could be given. Neither letter indicated that a vote of the ANC had taken place at a duly noticed meeting at which a quorum was present.

² OP recommended approval of the special exception request subject to minor site plan amendments to accommodate the preservation of existing trees on the site. Acknowledging OP's recommendations, the Board requested additional information from the Applicant to supplement the record to show a revised site plan. The Applicant filed revised site plans to meet OP's concerns along with a memorandum from OP that indicated that OP was satisfied that the revised site plan was consistent with OP's goals to revise the parking and drive aisle sizing and relocation of the trash enclosure. (Exhibit 27)

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 exception under subsection 353. 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 reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 353, that the requested relief can be granted as 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.

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 Exhibits 24(a) and 27 – Revised Plans) be **GRANTED**:

VOTE: 4-0-1 (Shane L. Dettman, Meridith Moldenhauer, Marc D. Loud, Anthony J. Hood to APPROVE. One Mayoral appointee (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:



RICHARD S. NERO, JR.

Acting Director, Office of Zoning

FINAL DATE OF ORDER:

JUL 31 2009

³ The Department of Housing and Community Development (DHCD) also submitted a report in this case that was supportive. Nonetheless, while acknowledging that DHCD was supportive, the Board did not rely on the DHCD letter, as it referenced an earlier project that was similar in terms of the number of units, but which had been withdrawn. (Exhibit 22)

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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, 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.

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As Acting Director of the Office of Zoning, I hereby certify and attest that on July 31, 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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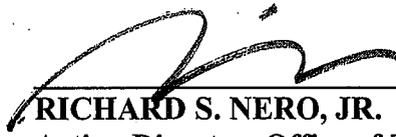
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ATTESTED BY:



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