GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment

Application No. 18308-A of Bozzuto Development Group, pursuant to 11 DCMR § 3103.2, for variance relief from lot occupancy requirements under subsection 772.1, nonconforming structure requirements under subsection 2001.3, parking requirements under subsections 2101.1, 2108.2, and 2116.12, and the loading requirements under subsection 2201.3, to renovate, convert, and expand an existing warehouse building for residential (63-unit apartment house) use in the DD/C-2-C District at premises 460 New York Avenue, N.W. (Square 515N, Lot 828).[1]

HEARING DATE: February 14, 2012
DECISION DATE: March 13, 2012

CORRECTED SUMMARY ORDER[2]

SELF-CERTIFIED

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

The Board of Zoning Adjustment ("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 letter, dated January 17, 2012, in support of the application. The ANC noted that at a duly noticed and regularly scheduled public meeting on January 11, 2012, with a quorum present, the ANC voted unanimously (8-0-0) to support the application. (Exhibit 21.) The Office of Planning ("OP") submitted a timely report which supported relief from Sections §§ 2001.3 and 2101.1, but not for § 2116.12 for the application. (Exhibit 27.) The District Department of Transportation ("DDOT") submitted a letter of "no objection" to the application. (Exhibit 24.)

[1] Application amended by Applicant to withdraw special exception relief from sections 411.11 and 770.6(b) roof structure requirements. Application amended to add variance relief from section 2116.12 requiring parking spaces provided within a structure to be located at least 20 feet from all lot lines that abut public streets and section 2001.3 expansion of nonconforming structure.

[2] This order corrects the inadvertent omission of parking flexibility language granted by the Board.

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 18308-A
EXHIBIT NO. 40

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 variances from lot occupancy requirements, nonconforming structure requirements, parking requirements, and loading requirements under subsections 772.1, 2001.3, 2101.1, 2108.2, 2116.12, and 2201.3. 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. Two letters in support were received. (Exhibits 28 and 29) No letters in opposition of the application were received.

Based upon the record before the Board and having given great weight to the OP report and ANC letter filed in this case, the Board concludes that in seeking a variances from § 772.1, 2001.3, 2101.1, 2108.2, 2116.12, and 2201.3, the applicant has met the burden of proving under 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates an undue hardship and 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 § 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. The waiver will not prejudice the rights of any party, and is appropriate in this case. The waiver is therefore **ORDERED** that this application, pursuant to Exhibit 30 – Plans is hereby **GRANTED.** The Applicant shall have the flexibility to modify the project plans regarding internal alterations to the structure and parking mechanisms, so long as the modifications do not require any additional areas of zoning relief.

VOTE: **5-0-0** (Meredith H. Moldenhauer, Nicole C. Sorg, Lloyd J. Jordan, Jeffrey L. Hinkle, and Michael G. Turnbull to GRANT)

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

ATTESTED BY: _____
SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: MAR 27 2012

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

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 PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

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. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

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