

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18390 of Community Three Development LLC, pursuant to 11 DCMR § 3103.2, for a variance from the drive aisle width requirements under § 2117.5 and a variance from the compact space requirements under § 2115.2, to allow the conversion of an existing building into a 22-unit, four-story multi-family residential building, in the C-2-A District at premises 435 R Street, N.W. (Square 508, Lots 52, 53, and 66).¹

HEARING DATE: July 31, 2012

DECISION DATE: July 31, 2012

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 5 and 23.)

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”) 2C and to owners of property within 200 feet of the site as well as to the Office of Planning (“OP”). The site of this application is located within the jurisdiction of ANC 2C, which is automatically a party to this application. ANC 2C submitted a written report of support. The ANC’s report indicated that at a duly noticed and regularly scheduled meeting held June 6, 2012, at which a quorum was present, the ANC voted 3:0:0 to support the application. (Exhibit 28.)

¹ The Applicant amended the application and at the hearing reconfirmed that it was seeking area variances under §§ 2115.2 and 2117.5. (Exhibit 23.) There are 11 required parking spaces; in its revised plan the Applicant will provide nine legal spaces and two compact spaces. According to the Office of Planning report, the 11 parking spaces proposed in the Applicant’s revised proposal would satisfy the off-street parking requirements under § 2101.1, so that variance relief under that subsection would no longer be required.

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The Office of Planning (“OP”) submitted a report dated July 24, 2012, recommending approval of the application. (Exhibit 24.) The District Department of Transportation (“DDOT”) submitted a report that recommended approval of the application.² (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 § 3103.2, for area variances from the drive aisle width requirements under § 2117.5 and from the compact space requirements under § 2115.2, to allow the conversion of an existing building into a 22-unit, four-story multi-family residential building.

Based upon the record before the Board and having given great weight to the ANC and OP reports filed in this case, the Board concludes that the Applicant has met the burden of proving under 11 DCMR §§ 3103.2, 2117.5, and 2115.2, 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. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

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.

It is therefore **ORDERED** that this application is hereby **GRANTED, SUBJECT** to the approved revised plans, as shown on Exhibit 25.

VOTE: 4-0-1 (Lloyd J. Jordan, Peter G. May, Rashida Y.V. MacMurray, and Jeffrey L. Hinkle to **Approve**; Nicole C. Sorg, not present or participating, not voting.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this summary order.

ATTESTED BY:  _____ **for**

SARA A. BARDIN
Director, Office of Zoning

² In its report recommending approval of the application, DDOT also recommended a loading management plan and transportation demand measures. At the hearing, the Board asked the Applicant about DDOT’s recommendations and it was pointed out that those recommendations seemed to relate to the application before it was amended. The Applicant indicated that the revised application requested less relief than originally sought. DDOT did not attend the hearing. The Board did not impose DDOT’s recommended conditions.

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FINAL DATE OF ORDER: August 6, 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.