

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18409 of CAS Riegler Companies, pursuant to 11 DCMR § 3103.2, for a variance from the off-street parking requirements under § 2101.1, for the conversion of an existing flat into an apartment house containing four¹ units in the R-4 District at premises 1300 Park Road, N.W. (Square 2843, Lot 824).

HEARING DATES: October 2, 2012, January 8, 2013, March 12, 2013, May 21, 2013, and July 23, 2013²

DECISION DATE: July 23, 2013

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case is self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 5.)

The Board of Zoning Adjustment (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 the Applicant, Advisory Neighborhood Commission ("ANC") 1A, and to all owners of property within 200 feet of the property that is the subject to this application. The subject property is located within the jurisdiction of ANC 1A, which is automatically a party to this application. A letter from ANC 1A was submitted to the record in support of the original application, dated September 12, 2012, which indicated that at a duly noticed, regularly scheduled monthly meeting on September 12, 2012, with a quorum present, the ANC took voted 7 (yeas):0 (nees):2 (absentions) to approve the request for relief for required off-street parking and to support the Applicant's request for relief from the Building Restriction Line restriction. (Exhibit 27.) The record reflects that the

¹ The Applicant revised the project and changed the number of units to four units from the originally requested five units. The caption has been amended to reflect that change.

² Since filing the application, the Applicant requested and was granted several continuances of the hearing in the case pending Council legislative action to remove one of the two Building Restriction Lines that encumber the subject property. As the process to remove one of the Building Restriction Lines became too much of a delay, the Applicant chose to proceed with a slightly smaller project that did not require the building line removal. (Exhibits 28 - 32.)

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Applicant presented the ANC with the revised proposal on July 11, 2013. ANC 1A did not submit a supplemental report or otherwise change its vote of approval.

The Office of Planning ("OP") submitted a timely report dated July 16, 2013, recommending approval of the application, as revised. (Exhibit 33.) OP had submitted a prior report dated September 18, 2012, recommending the Board take no action in regard to the application when the project design had required that the Applicant get approval of Council legislation to remove the Building Restriction Line on the property. (Exhibit 27.) The 2013 OP report noted that its approval recommendation was based on the Zoning Administrator's determination that this is a conversion of the existing rowhouse. (Exhibit 33.) The District Department of Transportation ("DDOT") submitted a letter of "no objection" to the record. (Exhibit 24.)

A letter of opposition was submitted for the record by Bill Hernandez, Power Brokers Property Management, on behalf of The Wisteria Apartments, 1315 Park Road, N.W. (Exhibit 22.)

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary under § 3103.2, to establish the case for a variance from the off-street parking requirements under § 2101.1. 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.

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 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 requested 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 requirements 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 the application is hereby **GRANTED, SUBJECT TO THE REVISED PLANS AT EXHIBIT 32.**

VOTE: **3-0-2** (Lloyd J. Jordan, Jeffrey L. Hinkle, and Robert E. Miller to Approve; S. Kathryn Allen, not present or voting, and one Board seat vacant.)

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

ATTESTED BY:  _____ *for*

SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: July 30, 2013

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 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO § 3129.9, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL TOLL OR 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.