

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18477 of Abdo 14th St LLC, pursuant to 11 DCMR §§ 3103.2 and 3104.1, for a variance from the building height setback requirements under subsection 1902.1(b), a variance from the off-street parking requirements under subsection 2101.1, and a special exception from the rear yard requirements under subsection 774.2, in the ARTS/C-3-A District at premises 1400-1404 14th Street, N.W. (Square 210, Lots 82, 102, and 800).

HEARING DATE: January 8, 2013

DECISION DATE: January 8, 2013

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was 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 Advisory Neighborhood Commission ("ANC") 2F, and to owners of property within 200 feet of the site. The site is located within the jurisdiction of ANC 2F, which is automatically a party to this application. ANC 2F submitted a timely letter in support of the application. The ANC letter indicated that at a duly noticed, regularly scheduled public meeting held on December 5, 2012 of ANC 2F with a quorum of commissioners present, the ANC voted unanimously (5:0) to support the application. (Exhibit 31.)

The Office of Planning ("OP") submitted a report in support of the application.¹ (Exhibit 27.) The District Department of Transportation ("DDOT") submitted an initial report expressing its concerns of the application and asked for additional information from the Applicant. (Exhibit 30.) The Applicant submitted the requested additional information. The Historic Preservation Review Board ("HPRB") staff report recommended the HPRB find the proposed project concept compatible with

¹ OP recommended that the Applicant identify bicycle parking location on the Site Plan. (Exhibit 27.) The Applicant submitted revised plans at the hearing showing the location of the bicycle racks in response to the recommendation. (Exhibit 32.)

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the character of the historic district and the purposes of the preservation law. (Exhibit 7.)

Letters of support for the application were submitted by Gary Lustine, Lustine Realty Company (Exhibits 26 and 29), James Kane, president, 1426 Rhode Island Ave., NW Condominium Association for the association (Exhibit 24), and David Misenhimer, president, Willison Board of Directors on behalf of that condominium association (Exhibit 23). At the hearing the Board gave leave for the Applicant to submit a letter of support from Mr. Greg Kahn who was away from town and unable to submit a letter prior to the proceedings. Thereafter, a letter of support was filed by Mr. Kahn, owner of Kahn Design Architects located at 1327 14th Street, N.W., who owns both the business and the property where the business is located. He is also co-owner of the office property located at 1405 Rhode Island Avenue that is adjacent to the subject property of this application. (Exhibit 38.)

Variance Relief:

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for a variance under § 3103.2 from the strict application of the building height setback requirements under § 1902.1(b) and the off-street parking requirements under § 2101.1.

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 in seeking the variance relief 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.

Special Exception Relief:

As directed by 11 DCMR § 3119.2, the Board also required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1 for a special exception under § 774.2. 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 proof, pursuant to 11 DCMR § 3104.1, 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 requirements of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law.

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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**, and the **FOLLOWING CONDITIONS**:

1. All loading shall occur at the rear of the building from the public alleys unless it is otherwise not feasible.
2. The Applicant shall implement a Transportation Demand Management program as follows:
 - A. A member of the property management team shall be designated as the Transportation Management Coordinator (“TMC”). The TMC will be responsible for ensuring that information is disseminated to tenants of the building. The position may be part of other duties assigned to the individual.
 - B. The TMC will prepare a package of information identifying programs and incentives for encouraging retail and residential tenants to use alternative modes of transportation. Packages will include information regarding the following:
 - Capital Bikeshare,
 - Zipcar,
 - Commuter Connections Rideshare Program,
 - Commuter Connections Guaranteed Ride Home, and
 - Commuter Connections Pools Program.
 - C. Links to CommuterConnections.com and goDCgo.com will be provided on the property management websites.
 - D. The redeveloped property will provide on-site bike storage (four external and 16 internal bicycle parking spaces at a minimum).
 - E. At the time of initial lease of the building, each residential tenant shall be given either a one year membership to Capital Bikeshare, a one year membership to a car-sharing service, or a \$100 SmarTrip card. This membership shall be limited to residential tenants at the time of initial lease up.
3. The building shall make available 20 off-site parking spaces.

VOTE: **4-0-1** (Lloyd L. Jordan, Nicole C. Sorg, Jeffrey L. Hinkle, and Marcie I. Cohen, to Approve; the third Mayoral appointee 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:



SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: January 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 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.

PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

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.