

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18489 of GA Views Management LLC, pursuant to 11 DCMR §§ 3104.1 and 3103.2, for special exception approval to waive the rear yard requirements pursuant to §774.2; for special exception approval, pursuant to §1330.2, to permit a building on a corner lot that is not constructed to the property lines abutting the public streets as required under §1328.2; and for a variance of the off-street parking requirements in § 2101.1, in order to permit a mixed-use project that consists of ground floor retail and residential use above in the Georgia Avenue Commercial (GA) Overlay District at 3557-3559 Georgia Avenue, N.W. (Lot 89, Square 3033).¹

HEARING DATE: January 15, 2013
DECISION DATE: February 12, 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 ("Board" or "BZA") 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. At its regularly scheduled meeting on January 9, 2013, ANC 1A voted 10-0-0 to adopt a resolution in support of the Application. The ANC submitted a Form 129 and a copy of its resolution for the record. (Exhibit 28.) Jim Graham, Councilmember for Ward 1, submitted a letter in support of the Application. (Exhibit 30.)

¹ The Applicant amended its application by withdrawing its request for variances from the roof structure provisions under §§ 774, adding a request for special exception relief pursuant to §1330.2, to permit a building on a corner lot that is not constructed to the property lines abutting the public streets as required under § 1328.2, and changing its original request for an area variance from the minimum rear yard requirements to a special exception request. The caption has been amended to reflect all of those changes.

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The Office of Planning ("OP") submitted a report, dated January 8, 2013, in which it expressed its support in concept of the proposed application, but indicated that it could not make a recommendation at that time. Nevertheless, OP stated that it was its belief that the Applicant could satisfy the relief standards, but urged the Applicant to provide additional information and address OP's concerns by adopting certain conditions.² (Exhibit 26.) The District Department of Transportation ("DDOT") submitted a memorandum, dated January 8, 2013, stating the Application has a negligible impact to the transportation system and that the agency had no objection to the requested variances provided that the Applicant installs a minimum of 20 bicycle parking spaces and implements the recommended transportation demand management ("TDM") measures. (Exhibit 27.)

Ms. Anna Bowman, who resides at 732 Otis Place, testified at the hearing. She was primarily concerned that the lack of parking at the project would adversely impact the residents on Otis Place.

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 off-street parking requirements of § 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.

The Board closed the record at the conclusion of the hearing.³ 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 § 3103.2 for area variances under § 2101.1, 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 for a special exception from the rear yard requirements in §774.1 and design standards in §1328.2. No parties appeared at the

² The Applicant submitted the requested information and agreed to the conditions proposed by OP and DDOT that addressed the concerns that were raised. (Exhibit 34.) At the public hearing, OP testified that it was now supportive of the application based on the Applicant's testimony and additional information provided as well as the ANC's unanimous vote in support of the project.

³ At the public meeting, the Board requested and gave leave to the Applicant to submit a revised roof plan for the project.

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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 OP and ANC reports filed in this case, the Board concludes that the Applicant has met the burden of proof for special exception for the waiver of the rear yard requirements and to set the building back from the property lines abutting the public streets, and the relief is 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. 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 following **CONDITIONS**:

1. The Property shall be developed in accordance with the highlighted plans titled "The V at Georgia Avenue" dated December 28, 2012, marked as **Exhibit 25** of the record, except as modified by Sheet A2.2, dated 07-12-2012 and submitted to the Board on February 19, 2013, and marked as **Exhibit 36** of the record.
2. The project shall include the following transportation demand management measures:
 - a. A member of the property management team will be designated as the Transportation Management Coordinator (TMC). The TMC will be responsible for ensuring that information is disseminated to tenants of the building.
 - b. The TMC shall provide a packet of information identifying programs and incentives for encouraging retail and residential tenants to use alternative modes of transportation. The packets shall include information regarding 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 shall be provided on the property management websites.
 - d. The Applicant shall provide at least 20 bicycle spaces in the building. Convenient and covered secure bike parking facilities shall be provided.
 - e. The Applicant shall provide the first occupant of each residential unit, upon closing of a sale or signing of a lease: a car sharing membership at a value of

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\$100.00, or a Capital Bikeshare membership at a value of not less than \$150.00; or a *Smart Trip* card at a value of not less than \$200.00.

- f. There shall be no permanent garbage dumpster in the rear yard.

VOTE: **3-0-2** (Lloyd L. Jordan, Jeffrey L. Hinkle, and Peter G. May to Approve; Nicole C. Sorg not present or participating; 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: February 22, 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

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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.

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As Director of the Office of Zoning, I hereby certify and attest that on February 22, 2013, a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, or delivered by electronic mail in the case of those ANCs and SMDs that have opted to receive notices thusly, 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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