

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18503 of Keystar Spring Place, LLC, pursuant to § 3103.2, for variance relief under § 2101.1 to reduce the number of required parking spaces and under § 2201.1 to eliminate the required loading berth and loading platform to permit the construction of a 64-unit rental apartment building within the C-2-A District at premises located on Spring Place, N.W. (Square 3186, Lots 0001 and 0804).

Application No. 18505 of Keystar Spring Place LLC and Anabel Pestana pursuant to § 3103.2, for variance relief under § 2101.1 to reduce the number of required parking spaces and under § 2201.1, to reduce the required length of the loading berth, to eliminate the required service/delivery space and to reduce the size of the loading platform to permit the construction of an 87-unit rental apartment building within the C-2-A District at premises 1795 Bull Place, N.W. and 7051-7053 Spring Place, N.W. (Square 3185, Lots 0052 and 0822).

HEARING DATES: February 26, 2013, and March 26, 2013
DECISION DATE: March 26, 2013

DECISION & ORDER

SELF-CERTIFIED

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

The Board provided proper and timely notice of the public hearings on this application by publication in the *D.C. Register*, and by mail to Advisory Neighborhood Commission (“ANC”) 4B and to owners of property within 200 feet of the site. The two applications by the Applicant involve properties separated only by a public right-of-way and are part of a common scheme of development, and the Board granted the Applicant’s request to consolidate the two applications. The site of this application is located within the jurisdiction of ANC 4B, which is automatically a party to this application. ANC 4B submitted an adopted resolution taken at its February 5, 2013 meeting supporting the applications “with some conditions and concerns” and additional recommendations taken at its meeting on March 25, 2013. The Office of Planning (“OP”) and the District Department of Transportation (“DDOT”) submitted reports in support of the application.

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Variance Relief:

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 §§ 2101.1 and 2201.1. 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.

The Board is required under Section 13 of the Advisory Neighborhood Commission Act of 1975, effective October 10, 1975 (D.C. Law 1-21), as amended, now codified at D.C. Code § 1-309.10(d)(3)(A)) to give “great weight” to the issues and concerns raised in the affected ANC’s written recommendations. To give “great weight” the Board must articulate with particularity and precision the reasons why the ANC does or does not offer persuasive advice under the circumstances and make specific findings and conclusions with respect to each of the ANC’s issues and concerns.

In this case, although ANC 4B supported the zoning relief granted, it did so subject to conditions that went beyond the list of conditions developed and agreed to by the Applicant, OP and DDOT. In particular, ANC 4B wanted the Board to mandate that the Applicant construct at its own cost that section of the Metropolitan Branch Trail south of the site to Cedar Street, N.W. to afford ADA-access to the Takoma Park Metrorail Station. The Board does not find that this requirement is needed to mitigate any potential adverse impacts of the relief granted. The proposed conditions suffice.

Based upon the record before the Board and having given great weight to the OP report filed in this case, the Board concludes that in seeking variances from §§ 2101.1 and 2201.1, 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 each of the two properties that creates 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. It is therefore **ORDERED** that this application is hereby **GRANTED, SUBJECT** to the following **CONDITIONS**:

1. The Applicant shall extend its proposed multi-use trail for the entire length of Spring Place from Chestnut along its property to facilitate pedestrian access to its site. The segment from the Applicant’s property to Chestnut shall be on the existing paved street and shall be demarcated by pavement markings (no bollards).

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2. The Applicant shall, in cooperation with DDOT, complete a full engineering design and seek to facilitate the acquisition of all necessary easements and agreements from the adjacent property owners to allow for the construction of a multi-use trail by the District of Columbia extending from the southern end of Spring Place to the sidewalks on the north side of Cedar Street.
3. The Applicant shall install a “Do Not Block Intersection” sign per DDOT standards for the southbound approach of Blair Road at its intersection with Chestnut Street.
4. The Transportation Demand Management (TDM) strategies described in the Applicant’s TIS shall be amended to require that the proposed transit subsidies, car-share and bike share memberships be provided to all residents on an on-going basis rather than just the initial set of residents. Applicant shall offer to each tenant household one of the following: 1) one annual car share membership, 2) one annual Capital Bikeshare membership, or 3) an annual \$60 Metro farecard.
5. The Applicant shall provide a minimum of 75 secure long-term bicycle parking spaces (combined) to be located within the two buildings.
6. A minimum of three (3) inverted U-style bicycle racks to be installed at an entrance to each building.
7. The Applicant shall redesign the loading area to accommodate loading movements for a 25-foot vehicle without the need for multiple turns and shall provide simplified maneuvering for a professionally operated 30-foot vehicle. At the intersection of the alley and Spring Place, the Applicant will provide additional safety measures, including a speed-bump adjacent the multi-use trail, convex safety mirrors and warning signage for both trail users and drivers.
8. The Applicant shall create and implement a loading management instruction plan for tenants that addresses scheduling and safety concerns related to truck movements in public space. Applicant shall agree on truck lengths, as determined by DDOT, to be permitted in the loading alley with a maximum length of 30 feet. Trucks, not professionally operated, shall be limited to 25 feet.
9. Applicant agrees to restrict issuance of Residential Parking Permits at this location in an agreement acceptable to OP and DDOT.
10. For a period of two years after the completion of the project’s final phase, the Applicant shall provide annual reports to the ANC and DDOT concerning the transportation issues discussed above.

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11. The Applicant shall provide a surface car-share space so that tenants and the general public may access the car share vehicle.
12. In the event that the extension of the Metropolitan Branch Trail from the subject property to Cedar Street is not constructed by the time the buildings on the subject property are ready for occupancy, the Applicant shall construct, at its own cost, an extension of the sidewalk on the southeast side of Chestnut Street from Spring Place to Blair Road in order to afford ADA-access to the Takoma Park Metrorail Station.

VOTE: **4-0-1** (Lloyd J. Jordan, Nicole C. Sorg, Jeffrey L. Hinkle and Peter G. May to Approve; S. Kathryn Allen not participating in the second day of the public hearing, not voting)

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: May 14, 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.

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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.