

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18778 of KJ Florida Avenue Property, LLC, pursuant to 11 DCMR §§ 3104.1 and 3103.2, for area variances from the loading requirements of § 2201.1 and the compact parking space requirements of § 2115.4, and special exceptions from the Reed-Cooke height requirements of § 1402.1, and the roof structure requirements of §§ 770.6 and 411 to allow the construction of a multi-family residential building in the RC/C-2-B District at 1711 Florida Avenue, N.W. (Square 2562, Lot 95).¹

HEARING DATE: June 17, 2014
DECISION DATE: June 17, 2014 (Bench Decision)

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 6.)

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”) 1C, and to all owners of property within 200 feet of the property that is the subject of this application. The subject property is located within the jurisdiction of ANC 1C, which is automatically a party to this application. ANC 1C submitted a letter in support of the application, with conditions that the Applicant (i) comply with the inclusionary zoning requirements of the Reed-Cooke Overlay regulations, (ii) provide 25% of the cellar area to the inclusionary zoning calculations; and (iii) endeavor to have a Bikeshare station installed adjacent, or in proximity, to the property. (Exhibit 32.) The Office of Planning (“OP”) and the District’s Department of Transportation (“DDOT”) also submitted reports in support of, or with no objection to, the application. (Exhibits 33 and 34.)

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 loading requirements of § 2101.1 and the compact parking space

¹ The application was amended to include the additional variance relief from the compact parking space requirements of § 2115.4

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requirements of § 2115.4; and for a special exception under § 3104.1 from the strict application of the roof structure requirements of § 770.6, and the height requirements of the Reed-Cooke Overlay under §§ 1402.1 and 1403.1. 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. 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 §§ 2201.1 and 2115.4, 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. The Board also concludes that the Applicant has met the burden of proof for special exception relief, pursuant to 11 DCMR §§ 3104.1, 770.6, 1402.1 and 1403.1, and 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. The Applicant agreed to the conditions requested by the ANC; however, the Board concludes that only the condition pertaining to additional IZ square footage offers the requisite specificity to be enforceable. As for the first requested condition, the Board concludes that the Applicant is required to comply with the IZ requirements of the Reed-Cooke Overlay anyway, rendering the condition unnecessary. As for the third condition pertaining to a Bikeshare station, the Board concludes that it is not specific enough to be enforceable. The Board notes that the Applicant did not request any relief from the number of required parking spaces or any other zoning provision that would create a nexus with the ANC's proposed condition to explore installation of a Bikeshare station. Consequently, the ANC's proposed Bikeshare condition is not germane to this application.

It is therefore **ORDERED** that the application is hereby **GRANTED, SUBJECT TO THE REVISED APPROVED PLANS AT EXHIBIT 31B AND WITH THE FOLLOWING CONDITION:**

1. The Applicant shall devote 25% of the gross floor area in the cellar to the inclusionary zoning floor area ratio calculations.

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.

VOTE: **4-0-1** (Lloyd L. Jordan, Robert E. Miller, S. Kathryn Allen, and Marnique Y. Heath to approve; Jeffrey L. Hinkle not present, 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:  _____ *for*
SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: June 18, 2014

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.

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

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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.