

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19267-A of 1711 Rhode Island Owner LLC, as amended¹, pursuant to 11 DCMR §§ 3103.2 and 3104.1, for variances from the off-street parking requirements under § 2101.1, the compact space percentage requirements under § 2115.2, the compact space grouping requirements under § 2115.4, and the minimum drive aisle width requirements under § 2117.5, and a special exception from the office use requirements under § 508.1, to renovate an existing building for use as offices in the DC/SP-1 District at premises 1711 Rhode Island Avenue N.W. (Square 159, Lot 87).

HEARING DATE: May 17, 2016

DECISION DATE: May 17, 2016

CORRECTED² SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 7 (original), 25 (first revised), and 32 (final revised).) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

¹ The Applicant amended the application twice from the original request for special exceptions from §§ 508.1 (for office use) and 2108.1 (from minimum parking requirements). (Exhibits 1 and 7.) The first revised application requested a variance from the drive aisle requirements under § 2117.5 and a special exception for office use under § 508 and for parking under § 2108. (Exhibits 24 and 25.) The Applicant submitted its final revised application on April 21, 2016, requesting variances from the off-street parking requirements under § 2101.1, the compact space percentage requirements under § 2115.2, the compact space grouping requirements under § 2115.4, and the minimum drive aisle width requirements under § 2117.5, and a special exception from the office use requirements under § 508.1, to renovate an existing building for use as offices in the DC/SP-1 District. (Exhibits 31 and 32.) The caption has been revised accordingly.

² This order has been corrected to clarify that the variance from the compact space percentage requirements under § 2115.2 was granted with flexibility to designate up to 50% of the zoning compliant vehicle parking spaces provided as compact spaces. (Exhibit 37, pg. 18.) That is the only change to the order.

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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") 2B and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2B, which is automatically a party to this application. The ANC submitted a report in support of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on May 11, 2016, at which a quorum was present, the ANC voted 6:0:1 to support the application.³ (Exhibit 41.)

The Office of Planning ("OP") submitted a timely report and testified in support of the application.⁴ (Exhibit 38.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application subject to four conditions. (Exhibit 39.) The Applicant testified that it accepted all of the conditions. (Exhibit 43.) The Board indicated that the conditions dealing with public space are outside of its purview, but that it would adopt the conditions dealing with the shower/changing facilities and the 40 long-term bicycle parking spaces. The Board also indicated that it would allow the Applicant some flexibility with regard to the placement of those 40 spaces.

At the public hearing there was testimony from Robert Rosenberg, whose law firm is across the alley from the subject property. Mr. Rosenberg testified that he was not opposed to the application but raised issues regarding how traffic will be accommodated in the shared alleyway, and noted for the record that the Applicant has been working to address those issues throughout the process.

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 pursuant to § 3103.2 for area variances from the off-street parking requirements under § 2101.1, the compact space percentage requirements under § 2115.2 (with flexibility to designate up to 50% of the zoning compliant vehicle parking spaces provided as compact spaces), the compact space grouping requirements under § 2115.4, and the minimum drive aisle width requirements under § 2117.5, to renovate an existing building for use as offices in the DC/SP-1 District. The only parties to the case were the ANC and the Applicant. 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 averse 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 in seeking variances from 11 DCMR § 2101.1, 2115.2, 2115.4, and 2117.5, the Applicant has met the burden of proof 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 relief can be granted without substantial detriment to the public good and without substantially

³ The Board waived the time requirements and accepted the ANC's report into the record.

⁴ OP's report notes that the Applicant's design has received concept approval from the Historic Preservation Review Board.

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impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

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 § 3104.1, for a special exception under § 508.1, to renovate an existing building for use as offices in the DC/SP-1 District. 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 averse to any party.

Based upon the record before the Board, and having given great weight to the ANC and OP reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 508.1, 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 requirement of 11 DCMR § 3125.5, 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, AND PURSUANT TO § 3125.8, SUBJECT TO THE APPROVED PLANS AT EXHIBITS 37E1, 37E2, AND 43 AND THE FOLLOWING CONDITIONS:**

1. The Applicant shall provide access to all tenants, if multiple tenants, to the shower and changing facilities.
2. The Applicant shall provide a minimum of 40 long-term bicycle parking spaces in a secure and easily accessible location. The Applicant shall have flexibility as to where those bicycle parking spaces shall be located.

VOTE: **4-0-1** (Marnique Y. Heath, Frederick L. Hill, Jeffrey L. Hinkle, and Peter G. May to APPROVE; Anita Butani D'Souza, not participating or 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 24, 2016

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 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

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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.