

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Board of Zoning Adjustment**



**Application No. 19307 of Lock7 Development, LLC**, pursuant to 11 DCMR § 3103.2, for a variance from the off-street parking requirements under § 2101.1, to renovate and expand an existing apartment house in the C-2-A District at premises 11 15th Street, N.E. (Square 1070, Lot 93).

**HEARING DATE:** July 12, 2016  
**DECISION DATE:** July 19, 2016

**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 5.) 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.

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") 6A and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6A, which is automatically a party to this application. The ANC submitted a report dated June 10, 2016 indicating that at a regularly scheduled and properly noticed public meeting on June 9, 2016, at which a quorum was in attendance, the ANC voted 7-0 to support the application on the conditions that:

1. There be RPP<sup>1</sup> restrictions placed on two of the units to be determined by the developer;
2. Traffic mitigation efforts be installed within the building;
3. A shadow study completed showing no impact on the lighting on neighboring properties; and

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<sup>1</sup> "RPP" means *residential permit parking*.

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4. Best attempts made to get letters of support from neighbors.

(Exhibit 30.)

The Board discussed with the Applicant the issues involved in the first two conditions, revised the language and ultimately adopted conditions as indicated on page 3 herein. The Board noted that the ANC's proposed conditions 3 and 4 are actually prerequisites to approval rather than conditions of approval. Regarding condition #3, the Applicant's representative stated that a shadow study was being entered into the record for the Board's consideration. (See Exhibit 28, SD 2.5-SD 2.10.) Regarding condition #4, the Applicant's representative stated that she had received letters in support from the two adjacent neighbors.

The Board requested that the Applicant provide revised conditions, as discussed, for the Board's consideration prior to the Board making a decision on the application. The Applicant complied with the Board's request. (*See*, Post-Hearing Submission: Revised Conditions, Exhibit 46.)

The Office of Planning ("OP") submitted a report dated July 5, 2016 recommending conditional approval of the application. (Exhibit 39.) The conditions related to the restriction of residential permit parking for two units, and the provision of off-street parking spaces nearby for use by residents of the building. At the hearing, OP's representative testified in support of the application and had no issues with the conditions as discussed between the Board and the Applicant.

The District Department of Transportation filed a report dated July 5, 2016 expressing no objection to the application. (Exhibit 40.)

Five letters in support of the application were filed in the record from the following area residents: Calvin Ward of 11 15<sup>th</sup> Street, N.E. (Exhibit 34); Candice Wise of 9 15<sup>th</sup> Street, N.E. (Exhibit 35); Jane Pyle of 1536 Independence Ave. (Exhibit 36); Erin Omara of 1313 D Street, N.E. (Exhibit 41); and Dena K. Tompros of 15 15<sup>th</sup> Street, N.E. (Exhibit 45). The Board also received a letter of support from the Capitol Hill Restoration Society. (Exhibit 44.)

One letter in opposition to the application was filed in the record by Kelly Boyer, a resident of 1449 A Street, N.E., Apt E, expressing a concern for traffic safety and the lack of parking. (Exhibit 25.)

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 a variance from § 2101.1. 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 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 a variance from § 2101.1, 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 the property that creates a practical difficulty for the

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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 § 3125.5, 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 REVISED PLANS AT EXHIBIT 7, AND SUBJECT TO THE FOLLOWING CONDITIONS:**

1. The Project shall include a transit screen.
2. The Project shall include nine secured bicycle parking spaces.
3. The Applicant<sup>2</sup> shall include in the condominium documents, public offering statement, and bylaws (collectively the “Condominium Documents”) special language pertaining to the requirement that the condominium retain, for the life of the Project, two off-street parking spaces (“Off-Street Parking Spaces) for lease or purchase by the owners of condominium units in the condominium, including any tenants or subtenants and successors and assigns (“Condo Unit Owners”). The Applicant shall record a covenant in the land records providing that the provisions in the Condominium Documents related to the Off-Street Parking Spaces may not be amended or removed.
4. Prior to obtaining a Certificate of Occupancy for the Project, the Applicant shall record a covenant against the Property among the Land Records of the District of Columbia requiring the Condominium to retain the Off-Street Parking Spaces for lease or purchase by the Condo Unit Owners for the life of the Project.
5. The condominium board, for the life of the Project, shall monitor compliance with these conditions, and shall provide copies of the leases and/or purchase and sale agreements, as applicable, for the Off-Street Parking Spaces to the Advisory Neighborhood Commission 6A annually.

**VOTE: 4-0-1** (Anita Butani D’Souza, Jeffrey L. Hinkle, Frederick L Hill, and Peter G. May (by absentee ballot) to APPROVE; Marnique Y. Heath not participating).

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<sup>2</sup> For purposes of the Off-Street Parking conditions, the term “Applicant” also applies to any and all successors and assigns of the Applicant, including the condominium board.

**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:** July 21, 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 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.

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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.