

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19233 of 824 Varnum LLC, pursuant to 11 DCMR § 3104.1, for a special exception from the use requirements under § 336, to convert an existing two-story dwelling into a three-unit apartment house in the R-4 District at premises 824 Varnum Street N.W. (Square 3024, Lot 50).

HEARING DATES: March 29, and April 19, 2016¹
DECISION DATE: May 10, 2016

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 3.) 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") 4C and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 4C, which is automatically a party to this application. The ANC submitted a report in support of the application, dated April 14, 2016, indicating that at a duly noticed and scheduled public meeting on April 13, 2016, at which a quorum was in attendance, ANC 4C voted 5-4 in support of the application. (Exhibit 24.) In its report, the ANC raised concerns about inaccuracies in the Office of Planning ("OP") report, including the report's indication that the ANC voted to support the application, although OP's report was submitted to the record in advance of the ANC meeting and decision on the application. ANC 4C also noted that OP's analysis failed to include multiple commercial corridors within two blocks of the

¹ The hearing was originally scheduled for March 29, 2016 and postponed at the Applicant's request to allow ANC 4C to consider the application at their April meeting. (Exhibit 19.)

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property and several multi-unit buildings within the same block as the Subject Property. ANC 4C requested that OP withdraw its report and correct the substantive issues in a new report.

Taalib-Din Uqdah, ANC Commissioner for Single Member District 4C01, filed a letter in opposition to the record, providing further detailed concerns about the inaccuracies in OP's report and raising additional concerns about the cumulative impact of residential conversions on the neighborhood. (Exhibit 25.) Commissioner Uqdah also testified at the public hearing on April 19, 2016 in opposition to the application.

OP submitted a timely report, dated April 11, 2016, recommending approval of the application. (Exhibit 21.) OP also testified at the hearing in support of the application. In response to the concerns raised by the ANC and the ANC SMD 4C01 Commissioner, OP testified about the inaccuracies in its report and indicated that a prior version of the report, submitted in advance of the ANC meeting and incorrectly noting that the ANC had already voted to support the application, had been withdrawn and corrected as to that issue. With regard to the ANC's concern that OP failed to consider multiple commercial corridors and multi-unit buildings within the block in its analysis of the site and surrounding character, OP noted that the Location and Site Description section in its report provides only general context and that the further analysis provided in other sections of its report offer a more complete and accurate discussion of the neighborhood character and surrounding properties. In addition, the Board requested that OP submit a supplemental report, containing its written response to the ANC and the ANC SMD 4C01 Commissioner's concerns. OP submitted its supplemental report under Exhibit 28. Based on OP's testimony and supplemental report, the Board determined that OP had adequately addressed the concerns raised by the ANC.

The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 22.)

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 § 336, to convert an existing two-story dwelling into a three-unit apartment house in the R-4 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 adverse 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 336, 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.

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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 20.**

VOTE: 5-0-0 (Marnique Y. Heath, Jeffrey L. Hinkle, Anita Butani D'Souza, Frederick L. Hill, and Robert E. Miller, to APPROVE.)

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 11, 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.

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.