

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19479 of Douglas and Diane Menorca, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions from the parking requirements of Subtitle C § 704, the penthouse setback requirements of Subtitle C § 1502, the height requirement of Subtitle E § 5102, the pervious surface requirement of Subtitle E § 5107, the rear yard requirement of Subtitle E § 5104, the side yard requirement of Subtitle E § 5105, and pursuant to Subtitle E § 205.5, relief from Subtitle E § 205.4,¹ the limitation on the rear wall of an addition extending more than ten feet past the rear wall of the adjacent building, and pursuant to 11 DCMR Subtitle X, Chapter 10, for variances from the nonconforming structure requirements of Subtitle C § 202.2, and the lot area and width requirements of Subtitle E § 201, to construct a one-story rear addition to an existing one-family row dwelling in the RF-3 Zone at premises 1 Library Court, S.E. (Square 788, Lot 826).

HEARING DATE: May 3, 2017

DECISION DATE: May 3, 2017

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 5 (original); Exhibit 14 (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.

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") 6B and to owners of property located within 200 feet of the site. The site of this application is located

¹ When this application was filed on February 17, 2017, Subtitle E §§ 205.4 and 205.5 were not in effect, but were pending as part of Zoning Commission Case No. 14-11B. However, the provisions went into effect on April 28, 2017 (64 DCR 4055), prior to the Board's decision on this application, and special exception relief under Subtitle E § 205.5 is therefore included in this order based on testimony at the hearing of the Applicant's representative in agreement with the Office of Planning's recommendation to include the relief. (See reference to Subtitle E § 205.4 in the Applicant's revised Burden of Proof Statement - Exhibit 13, p. 2.)

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within the jurisdiction of ANC 6B, which is automatically a party to this application. The ANC submitted a report dated April 14, 2017 recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on April 12, 2017, at which a quorum was present, the ANC voted 7-0-1 to support the application. (Exhibits 32 and 33.)

The Office of Planning ("OP") submitted a request for a one-day waiver of the filing requirements to allow the late filing of its report. (Exhibit 39.) By consensus, the Board waived the rules and accepted the OP report into the record. The OP report recommended approval of the application as amended. (Exhibit 39.)

The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 34.)

The Architect of the Capitol filed a timely report expressing its finding that the project is not inconsistent with the intent of the RF-3 Zone District. (Exhibit 38.)

Letters of support were submitted by neighbors at 3 Library Court, S.E. (Exhibit 31), 115 4th Street, S.E. (Exhibit 36), and 125 4th Street, S.E. (Exhibit 37.)

The Capitol Hill Restoration Society ("CHRS") submitted a letter dated May 2, 2017 stating that the CHRS Zoning Committee voted to oppose the application as proposed. (Exhibit 41.)

Variance Relief

As directed by 11 DCMR Subtitle X § 1002.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 1002.1 for area variances from the nonconforming structure requirements under Subtitle C § 202.2, and the lot area and width requirements under Subtitle E § 201, to construct a one-story rear addition to an existing one-family row dwelling in the RF-3 Zone. 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 Subtitle C § 202.2, and Subtitle E § 201, the Applicant has met the burden of proof under 11 DCMR Subtitle X § 1002.1, 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 impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Special Exception Relief

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As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for a special exceptions under Subtitle C § 704, the parking requirements, and § 1502, the penthouse setback requirements, and under Subtitle E § 5102, the height requirement, § 5107, the pervious surface requirement, § 5104, the rear yard requirement, § 5105, the side yard requirement, and §§ 205.4 and 205.5, the limitation on the rear wall of an addition extending more than ten feet past the rear wall of an adjacent building. The only parties to the case were the ANC and the Applicant. 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 OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2, Subtitle C §§ 704 and 1502 and Subtitle E §§ 5102, 5107, 5104, 5105, 205.4 and 205.5, 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 Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, 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 AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 7 - ARCHITECTURAL PLANS AND ELEVATIONS.**

VOTE: 3-0-2 (Carlton E. Hart, Michael G. Turnbull, and Lesylleé M. White to APPROVE; Frederick L. Hill being necessarily absent; one Board seat vacant.)

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 12, 2017

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PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, 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 SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, 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.