

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19736-B of Mi Casa, Inc., as amended¹, pursuant to 11 DCMR Subtitle X, Chapter 10, for area variances from the lot dimension requirements of Subtitle D § 302.1 and the side yard requirements of Subtitle D § 307.2, to construct a new principal dwelling unit in the R-3 Zone at premises 1928 15th Street S.E. (Square 5766, Lot 800).

HEARING DATE: May 30, 2018²
DECISION DATE: May 30, 2018

2ND CORRECTED SUMMARY ORDER³

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 5 (original) and 47 (revised).)⁴ 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") 8A and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 8A, which is automatically a party to this application.

¹ The original request included only a variance for lot dimension. (Exhibit 5.) Variance relief for side yard under Subtitle D § 307.2 was added based on revisions to the plans. The caption has been changed accordingly.

² The case was originally scheduled for a public hearing on April 18, 2018, but postponed to May 30, 2018 at the ANC and Applicant's request. (Exhibits 40 and 42.) The Chair granted the request for postponement. (Exhibit 44.)

³ Order No. 19736 incorrectly referred to the relief under Subtitle D § 307.2 as *rear* yard relief instead of *side* yard relief in footnote 1. Also, the relief being requested, per the revised plans at Exhibit 64, has been clarified, the discussion of the ANC and OP reports has been more fully detailed, and reference to an additional letter in opposition added. These errors and omissions have been corrected in this order.

⁴ The final relief being requested was revised and is reflected on the revised plans at Exhibit 64.

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The ANC submitted a timely report recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on May 1, 2018, at which a quorum was present, the ANC voted 7-0-0 to support the application for an area variance from the lot dimension requirements under Subtitle D § 302.1, but took no vote on the request for side yard relief so that the Applicant could address outstanding issues between the neighbor at 1926 15th Street S.E. and the Applicant. (Exhibit 57.) Those outstanding issues were resolved right before the hearing and a settlement agreement reached with the neighbor. (Exhibit 66.) Commissioner Greta Fuller testified on behalf of the ANC in support of the application at the hearing, acknowledging the settlement agreement.

The Office of Planning ("OP") submitted a timely report recommending approval of the application. (Exhibit 41.) Subsequently, in light of the Applicant's supplemental statement and revised relief at Exhibit 46, OP filed a supplemental report in which it continued to recommend approval of the minimum lot dimension relief, but stated that it could not make a recommendation as to the new side yard relief. (Exhibit 48.) At the hearing, OP testified in support of the settlement agreement reached on May 30, 2018 (Exhibit 66), and recommended approval of the final side yard relief requested, per the revised plans at Exhibit 64. The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 39.)

Six letters of support for the application were submitted to the record, three of which were modified based on the adjacent neighbor's concerns. (Exhibits 35-37, 49, 52, 54, 56, 58, and 59.)

Letters in opposition to the application were submitted by Karinne Kennedy, Carlene Reid, and Donna Murphy and Keenan Keller. (Exhibits 51, 53, and 55.)

The adjacent neighbor, Dorcas Agyei, submitted a request for party status in opposition. (Exhibits 38-38C.) Based on a settlement agreement between the Applicant and Ms. Agyei, that request was withdrawn. (Exhibit 66.) The Board acknowledged the withdrawal, noting that the agreement signed by Ms. Agyei specifically references her withdrawal of the party status request. The Board found that this constitutes written notice of her intent to withdraw as required by Subtitle Y § 404.16. At the hearing, Ms. Agyei testified she was in support of the application, as revised.

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 lot dimension requirements of Subtitle D § 302.1 and the side yard requirements of Subtitle D § 307.2, to construct a new principal dwelling unit in the R-3 Zone. After the party in opposition withdrew her opposition, the only parties to the case were the ANC and the Applicant. Thus, 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.

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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 D §§ 302.1 and 307.2, 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.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED REVISED PLANS AT EXHIBIT 64.**

VOTE: **5-0-0** (Frederick L. Hill, Lesylleé M. White, Lorna L. John, Carlton E. Hart, and Peter A. Shapiro 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. BORDIN
Director, Office of Zoning

FINAL DATE OF ORDER: June 8, 2018

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

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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.