

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**



**Application No. 20358 of Abraham Atansuyi**, as amended, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle U § 320.2 and, pursuant to Subtitle X, Chapter 10, for an area variance from the lot area requirements of Subtitle U § 320.2(c) to allow the conversion of an existing residential building (a flat) into a three-unit apartment house in the RF-1 Zone at 71 New York Avenue, N.W. (Square 618, Lot 70).<sup>1</sup>

**HEARING DATES:** February 24, 2021 and March 10, 2021  
**DECISION DATES:** March 10, 2021, October 9, 2024

**ORDER DISMISSING APPLICATION**

This self-certified application was filed on August 20, 2020 by Abraham Atansuyi, the owner of the property that is the subject of the application (the “Applicant”). The Board voted at a public meeting to dismiss the application because neither the Applicant nor his authorized representative appeared at the public hearing or provided any explanation for their absence.

**PRELIMINARY MATTERS**

Notice of Application and Notice of Hearing. By memoranda dated October 23, 2020, the Office of Zoning provided notice of the application to the Applicant, the Office of Planning (“OP”), the District Department of Transportation (“DDOT”), the Office of Advisory Neighborhood Commissions, Advisory Neighborhood Commission (“ANC”) 5E, the ANC in which the subject property is located, Single Member District ANC 5E05, ANC 6E,<sup>2</sup> the Councilmember for Ward 5 as well as the Chairman and three at-large members of the D.C. Council, and the owners of all property within 200 feet of the subject property. Notice was published in the *District of Columbia Register* on November 6, 2020 (67 DCR 13105).

Party Status. Pursuant to Subtitle Y § 403.5, the Applicant, ANC 5E, and ANC 6E were automatically parties in this proceeding. There were no requests for party status.

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<sup>1</sup> The application was amended twice, to add and then withdraw a request for a special exception from the vehicle parking requirements under Subtitle C § 701.5. (See Exhibits 12, 32, and 42.)

<sup>2</sup> Generally, the term “affected” ANC refers to the ANC where the subject property is located, but if an area represented by another ANC is directly across the street from the subject property, the term “affected ANC” also refers to that ANC. (Subtitle Y § 101.8.)

**BZA ORDER NO. 20358**  
**PAGE NO. 2**

Applicant's Case. The Applicant was represented by an architect, Portia Strahan, in requesting the zoning relief needed to allow the conversion of an existing attached building, now containing a two-unit flat, to a three-unit apartment house.

OP Report. By memorandum dated December 31, 2020, the Office of Planning recommended denial of the application, except for the special exception from vehicle parking requirements that was then part of the application. (Exhibit 38.)

DDOT Report. By memorandum dated January 4, 2021, the District Department of Transportation indicated no objection to approval of the application. (Exhibit 41.)

ANC Report. By report dated February 17, 2021, ANC 5E indicated that, at a public meeting on February 16, 2021 with a quorum present, the ANC voted to recommend denial of the application. (Exhibit 52.)

Persons in support. The Board received letters from persons in support of the application, who stated that the Applicant's project would not adversely affect neighboring properties.

Persons in opposition. The Board received letters from persons in opposition to the application who expressed concerns about the addition of another dwelling unit at the subject property, which would potentially cause objectionable conditions related to noise, trash, and increases in traffic and parking.

**FINDINGS OF FACT**

1. The property that is the subject of the application is an interior lot on the north side of New York Avenue, N.W. between 1<sup>st</sup> and North Capitol Streets, with the address 71 New York Avenue, N.W. (Square 0618, Lot 70).
2. The subject property is generally rectangular lot with an angled rear lot line, such that the side lot lines measure 72.38 feet (west) and 62.51 feet (east). The lot width is 19 feet and the lot area is 1,295 square feet.
3. The subject property is improved with a three-story attached building with a cellar. The existing building provides a rear yard of 28 feet and results in a lot occupancy of 57 percent.
4. The existing building is configured as a two-unit flat. The cellar level contains a one-bedroom, one-bathroom unit, while the three upper floors are configured as a dwelling with five bedrooms and two bathrooms.
5. The Applicant proposed to convert the existing flat to a three-unit apartment house by reconfiguring the upper floors as two dwelling units without any additions to the building except for a 60-square-foot rear deck addition on the second level that would increase lot occupancy to 60 percent and reduce the rear yard to 20 feet. As planned, the cellar level of the building would remain unchanged. The first floor would provide a dwelling with

two bedrooms and one bathroom, and the two upper floors would be configured as a dwelling with four bedrooms and two bathrooms.

### **CONCLUSIONS OF LAW AND OPINION**

The Applicant requested a special exception under Subtitle U § 320.2 and an area variance from the lot area requirements of Subtitle U § 320.2(c) to allow the conversion of an existing residential building (a flat) into a three-unit apartment house in the RF-1 zone at 71 New York Avenue, N.W. (Square 618, Lot 70). The Office of Zoning gave public notice of a public hearing on the application scheduled for January 31, 2021.

In addition to the initial application materials (Exhibits 1-6, 9-14), the Applicant submitted statements in support of the application (Exhibits 31, 33) as well as copies of email correspondence with ANC 5E (Exhibits 34-36). The Applicant also submitted an affidavit of posting (Exhibit 39) but failed to file an affidavit of maintenance of the posted notice, as required by Subtitle Y § 402.8.

On January 6, 2021, ANC 5E requested postponement of the hearing to allow time for consideration of the application by the ANC's zoning committee and the Hanover Area Civic Association. (Exhibit 43.) The Applicant consented to the postponement request (Exhibit 44) and the public hearing was postponed to February 24, 2021.

When the Applicant failed to appear at the public hearing on February 24, 2021, the Board rescheduled the public hearing to March 10, 2021 to give the Applicant an opportunity to appear at a public hearing or withdraw the application, which otherwise would be dismissed. The Office of Zoning notified the Applicant but did not receive a response. (Transcript of March 10, 2021 at 185-186.)

Neither the Applicant nor the Applicant's representative appeared at the public hearing on March 10, 2021 or provided any explanation of their absence. Pursuant to Subtitle Y § 600.3, the Board may dismiss an application for failure of the applicant to comply with the Board's procedural requirements. Pursuant to Subtitle Y § 600.4, "the Board may immediately dismiss an application ... if the applicant ... fails to appear at the hearing without explanation."

Great weight. The Board is required to give "great weight" to the recommendation of the Office of Planning. (D.C. Official Code § 6-623.04 (2012 Repl.).) In this case, OP recommended denial of the application.

The Board is also required to give "great weight" to the issues and concerns raised by the affected ANC. (D.C. Official Code § 1-309.10(d)(3)(A) (2012 Repl.); *see also* Subtitle Y § 406.2.) In this case, ANC 5E adopted a resolution recommending denial of the application, and ANC 6E did not submit a report.

In light of the failure of the Applicant or his authorized agent to appear at the public hearing or to provide an explanation for their absence, the Board concluded that the application should be dismissed. Accordingly, it is hereby **ORDERED** that the application is **DISMISSED**.

**BZA ORDER NO. 20358**  
**PAGE NO. 4**

**VOTE: 3-0-2** (Frederick L. Hill, Lorna L. John, and Chrishaun S. Smith voting to dismiss; Carl H. Blake and Zoning Commission member not participating)

**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:** October 23, 2024

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.

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.