

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



**Application No. 20429 of MADM Development LLC**, as amended, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle C § 1504, from the penthouse setback requirements of Subtitle C § 1502; under Subtitle E §§ 205.5 and 5201, from the rear addition requirements of Subtitle E § 205.4; and under Subtitle E §§ 503.5 and 5203, from the height restrictions of Subtitle E § 503.2, to construct a new, three-story flat in the RF-3/PDR-5 Zone at premises 411 New Jersey Avenue, S.E. (Square 0693, Lot 96).

**HEARING DATES:** March 31, 2021 and May 12, 2021  
**DECISION DATE:** May 12, 2021

**SUMMARY ORDER**

Relief Requested. The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 33C (Final Revised)<sup>1</sup>; Exhibit 15 (Revised); Exhibit 4 (Original).)

Notice of the Application and Public Hearing. The Board of Zoning Adjustment ("Board" or "BZA") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

Parties. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 6B.

ANC Report. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on March 9, 2021, at which a quorum was present, the ANC voted to support the application. (Exhibit 34.) The ANC Report raised no issues or concerns.

OP Report. The Office of Planning ("OP") filed two reports to the record:

- The first OP Report recommended denial of the area variance but recommended approval of the special exceptions. (Exhibit 35.)
- The second OP Report corrected an error in its first report, noting that the proposed rear extension is 21 feet and 8 inches and not 11 feet 8 inches. OP also noted that it supports application, as the Applicant withdrew its request for area variance relief. (Exhibit 44.)

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<sup>1</sup> The application was amended to withdraw a request for area variance relief from Subtitle E § 506.1.

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DDOT Report. The District Department of Transportation submitted a report, dated March 19, 2021, indicating that it had no objection to the application. (Exhibit 36.)

Other Reports. The following reports were submitted to the record:

- Commission on Fine Arts reports indicating that it had no objection to the project and granted concept approval. (Exhibits 12 and 48A.)
- Architect of the Capitol report, dated March 24, 2021, indicating that it had no objections. (Exhibit 38.)
- Historic Preservation Review Board agenda noting that the project had been granted concept approval. (Exhibit 13.)

Persons in Support. The Board received a letter from the Capitol Hill Restoration Society in support of the application. (Exhibit 43.)

**Special Exception Relief**

The Applicant seeks relief under Subtitle X § 901.2, for special exceptions under Subtitle C § 1504, from the penthouse setback requirements of Subtitle C § 1502; under Subtitle E §§ 205.5 and 5201, from the rear addition requirements of Subtitle E § 205.4; and under Subtitle E §§ 503.5 and 5203, from the height restrictions of Subtitle E § 503.2, to construct a new, three-story flat in the RF-3/PDR-5 Zone.

Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations filed in this case, the Board concludes that the Applicant has met the burden of proof that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map and that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. The Board further concludes that, pursuant to Subtitle X § 901.2(c), any other specified conditions for special exception relief have been met.

Pursuant to Subtitle Y § 604.3, the order of the Board may be in summary form where granting an application when there was no party in opposition. As a summary order, it does not constitute binding legal precedent on the Board and shall not be considered by the Board in evaluating future applications.

It is therefore **ORDERED** that this application is hereby **GRANTED** and, pursuant to Subtitle Y § 604.10, subject to the **APPROVED PLANS**<sup>2</sup> at **EXHIBIT 42B1 - 42B3**.

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<sup>2</sup>Self-certification: In granting the certified relief, the Board 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.

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**VOTE: 5-0-0** (Frederick L. Hill, Lorna L. John, Chrishaun S. Smith, Carl Blake, and Peter G. May 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 21, 2021

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,

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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.