

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



**BZA Application No. 20710-A
2340 Ainger, LLC
2340 Ainger Place, SE (Square 5740, Lot 349)**

HEARING DATE (20710):	May 5, 2022
DECISION DATE (20710):	May 5, 2022
ORDER ISSUANCE DATE (20710-A):	June 1, 2022
HEARING DATE (20710-A):	September 18, 2024
DECISION DATE (20710-A):	September 18, 2024

**SUMMARY ORDER ON REQUEST FOR
TWO-YEAR TIME EXTENSION and MODIFICATION WITH HEARING**

Pursuant to notice, at its September 18, 2024, public hearing, the Board of Zoning Adjustment (“**Board**” or “**BZA**”) deliberated on requests for a two-year time extension and modification with hearing to BZA Order No. 20710 to extend the original approval for an additional two years, and to modify the approved plans for Building A by constructing a cellar level and seven additional dwelling units in Building A for a new total of 20 units in a detached, two-story with cellar apartment house in the RA-1 zone. The Board considered the request for a two-year time extension under Subtitle Y § 705 and the request for a modification with hearing under Subtitle Y § 704 of Title 11 of the DCMR (Zoning Regulations of 2016, the “**Zoning Regulations**” to which all references are made unless otherwise specified). For the reasons stated below, the Board **APPROVES** the request a two-year time extension and for a modification with hearing.

ORIGINAL APPLICATION. In Application No. 20710, the Board approved the request by TMT Services, LLC¹ for special exceptions from the subdivision regulations of Subtitle C § 302.1, under the new residential development requirements of Subtitle U § 421, and from the parking screening requirements of Subtitle C § 714.2(a). The Board issued Order No. 20710 on June 1, 2022. (Exhibit 8 of the record for Case No. 20710-A.) Pursuant to Subtitle Y § 702.1, the Order was valid for two years from the time it became final.

¹ The subject property changed ownership from TMT Services, LLC to 2340 Ainger, LLC after the original application was approved.

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REQUEST FOR TWO YEAR TIME EXTENSION AND PROPOSED MODIFICATION. On April 23, 2024, the Applicant submitted a request for a two-year time extension and modification with hearing to Order No. 20710. (Exhibits 1-12.)

The proposed modification includes constructing a cellar level and seven additional dwelling units in Building A for an increase from 13 to 20 units in a detached, two-story with cellar apartment house. The Applicant submitted revised plans reflecting these modifications. (Exhibit 17B.) There are no changes proposed to Building B, approved in the original application as a detached, three-story with cellar, 8-unit apartment house. Based on the proposed modifications, the Applicant requests a special exception under the new residential development requirements of Subtitle U § 421, pursuant to Subtitle X § 901.2. The zoning relief requested in this case was self-certified. (Exhibit 18.)

NOTICE OF THE REQUEST FOR TIME EXTENSION AND MODIFICATION. Pursuant to Subtitle Y § 705.2(a) and Subtitle Y § 704.5, the Applicant served the time extension request and request for a modification with hearing on the parties to the original application. (Exhibit 12.) The Board 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") 8B.

ANC REPORT. The ANC did not submit a report to the record; however, ANC 8B Chair Joseph Johnson submitted a letter noting the ANC's support despite being unable to hold an official vote on the application. (Exhibit 26.)

OFFICE OF PLANNING ("OP") REPORT. OP submitted a report recommending approval of the modification. (Exhibit 21.)

DISTRICT DEPARTMENT OF TRANSPORTATION ("DDOT") REPORT. DDOT did not submit a report to the record.

CONCLUSIONS

This request for extension is pursuant to Subtitle Y § 705 of the Zoning Regulations, which permits the Board to extend the time periods in Subtitle Y § 702.1 for good cause shown upon the filing of a written request by the applicant before the expiration of the approval.

Pursuant to Subtitle Y § 705.2(a), the Applicant shall serve on all parties to the application and all parties shall be allowed 30 days to respond. Pursuant to Subtitle Y § 705.2(b), the Applicant shall demonstrate that there is no substantial change in any of the material facts upon which the Board based its original approval of the application. Finally, under Subtitle Y § 705.2(c), good cause for the extension must be demonstrated with substantial evidence of one or more of the following

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criteria: (1) An inability to obtain sufficient project financing due to economic and market conditions beyond the applicant's reasonable control; (2) an inability to secure all required governmental agency approvals by the expiration date of the Board's order because of delays that are beyond the applicant's reasonable control; or (3) the existence of pending litigation or such other condition, circumstance, or factor beyond the applicant's reasonable control.

Based upon the record before the Board and having given great weight to the appropriate recommendations and reports filed in this case, the Board finds that the Applicant has met the criteria of Subtitle Y § 705.2 to extend the validity of the underlying order.

Pursuant to Subtitle Y § 704.1, any request for a modification that does not meet the criteria for a modification without hearing² requires a public hearing and shall be processed as a modification with hearing. The Applicant's request complies with Subtitle Y § 704, which provides the Board's procedures for considering requests for modifications with hearing.

As directed by Subtitle X § 901.2 and Subtitle Y § 704, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for special exception and modification with hearing.

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.

DECISION

Based on the case record and the testimony at the hearing, the Board concludes that the applicant has satisfied the burden of proof for a time extension request and modification with hearing to modify the approved plans for Building A by constructing a cellar level and seven additional dwelling units for an increase from 13 to 20 units in a detached, two-story with cellar apartment house.

Accordingly, it is **ORDERED** that the modification request and request for a two-year time extension to the validity of the Board's approval in Order No. 20710 is **GRANTED**, consistent with the plans shown in Exhibit 17B of the record, and the Order shall be valid until **June 1, 2026**.

In all other respects, Order No. 20710 remains unchanged.

VOTE: 3-0-2 (Frederick L. Hill, Chrishaun S. Smith, and Anthony J. Hood to APPROVE;
Lorna L. John and Carl H. Blake not present, not participating)

² See, Subtitle Y § 703.7.

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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: September 24, 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.