

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



**BZA Application No. 21091  
FREEDOM 828 21ST ST NE LLC  
828 21st Street, N.E. (Square 4495, Lot 5)**

**HEARING DATES:** April 17 and July 3, 2024  
**DECISION DATE:** July 3, 2024

**SUMMARY ORDER**

**RELIEF REQUESTED.** The application requests the following relief in order to construct a third story with roof deck and rear addition with cellar, and convert to a three-unit apartment house, an existing attached, two-story with cellar principal dwelling unit the RF-4 zone:

- Special Exception from the roof top and upper floor element requirements of Subtitle E § 204.1, pursuant to Subtitle E § 204.4 and Subtitle X § 901.2
- Special Exception under the rear addition requirements of Subtitle E § 207.5, pursuant to Subtitle X § 901.2

The zoning relief requested in this case was self-certified. (Exhibit 35 – Final Revised Zoning Self-Certification.)

**PARTIES.** The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 5D, the "affected ANC" pursuant to Subtitle Y §§ 101.8 and 403.5(b) of the Zoning Regulations (Title 11 of the DCMR, Zoning Regulations of 2016, to which all references are made unless otherwise specified).

**NOTICE OF THE APPLICATION AND PUBLIC HEARING.** The Board of Zoning Adjustment (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.

**ANC REPORT.** The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on June 11, 2024, at which a quorum was present, the ANC voted to support the application. (Exhibit 38.) The ANC report raised no issues or concerns with approval of the relief requested.

**OFFICE OF PLANNING (“OP”) REPORT.** OP submitted a report recommending approval of the application. (Exhibit 22.)

**DISTRICT DEPARTMENT OF TRANSPORTATION (“DDOT”) REPORT.** DDOT did not submit a report to the record in this application.

**PERSONS IN SUPPORT.** The Board received six letters in support of the application. (Exhibits 18, 21, 29-32.)

**PERSONS IN OPPOSITION.** The Board received a petition with seven signatures in opposition to the application. (Exhibit 37.)

### **CONCLUSIONS**

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.

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 special exception relief can be granted because:

- It is in harmony with the general purpose and intent of the Zoning Regulations and Map;
- It will not tend to affect adversely the use of neighboring property; and
- Pursuant to Subtitle X § 901.2(c), the relief satisfies the specified conditions for special exception relief.

### **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 the requested relief:

- Special Exception from the roof top and upper floor element requirements of Subtitle E § 204.1, pursuant to Subtitle E § 204.4 and Subtitle X § 901.2
- Special Exception under the rear addition requirements of Subtitle E § 207.5, pursuant to Subtitle X § 901.2


Accordingly, it is **ORDERED** that the application is **GRANTED** consistent with the revised plans shown in Exhibit 34 of the record, as required under Subtitle Y §§ 604.9 and 604.10.

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

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

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A majority of the Board members approved the issuance of this order.

**ATTESTED BY:**  On behalf of  
**SARA A. BARDIN**  
**Director, Office of Zoning**

**FINAL DATE OF ORDER:** July 9, 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.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS, UNLESS, WITHIN SUCH TWO-YEAR PERIOD, AN APPLICATION FOR A BUILDING PERMIT FOR THE ERECTION OR ALTERATION APPROVED IS FILED WITH THE DEPARTMENT OF BUILDINGS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 IS FILED 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

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ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED.  
VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.