

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



**Application No. 21263 of Susan M. Tamborini, Trustee**, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle D § 5201 from the lot occupancy requirements of Subtitle D § 210.1, from the building area requirements for an accessory building of Subtitle D § 5003.1, and from the location requirements for an accessory building of Subtitle D § 5004.1(a) to allow a new accessory structure (deck and pergola) in the required rear yard of an existing two-story detached principal dwelling in the R-1B zone at 4632 Charleston Terrace, N.W. (Square 1368, Lot 54).

**HEARING DATE:** April 2, 2025

**DECISION DATE:** April 2, 2025

**PROPOSED DECISION AND ORDER**

This self-certified application was filed on December 18, 2024 on behalf of Susan M. Tamborini, Trustee (the “Applicant”), the owner of the property that is the subject of the application. Following a public hearing, the Board voted to approve the application.

**PRELIMINARY MATTERS**

Notice of Application and Notice of Hearing. In accordance with Subtitle Y §§ 400.4 and 402.1, the Office of Zoning provided notice of the application and of the public hearing, by letters dated January 3, 2025, to the Applicant, the Office of Planning (“OP”), the District Department of Transportation, the Department of Buildings, the Office of Advisory Neighborhood Commissions, Advisory Neighborhood Commission (“ANC”) 3D, the ANC in which the subject property is located and Single Member District ANC 3D06, the Councilmember for Ward 3 as well as the Chairman and four 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 January 17, 2025 (72 DCR 000400) and on February 28, 2025 (72 DCR 002078).

Party Status. Pursuant to Subtitle Y § 403.5, the Applicant and ANC 3D were automatically parties in this proceeding. The Board granted a request for party status in opposition to the application from Deborah James, the owner of the abutting property to the west of the Applicant’s lot. (Exhibits 26, 26A.)

Applicant’s Case. The Applicant provided evidence and testimony in support of the application, including from Tony Derro, the architect for the project. The Applicant requested zoning relief

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needed to allow a new accessory structure (deck and pergola) in the rear yard of the subject property, replacing an existing uncovered deck.

OP Report. The Office of Planning recommended approval of the requested relief. (Exhibits 27, 30.)

ANC 3D. By letter dated March 5, 2025, ANC 3D indicated that, at its regularly scheduled and noticed meeting on March 5, 2025, with a quorum present, “ANC 3D could not come to a consensus on whether to support or oppose this project.” (Exhibit 22.)

Party in Opposition. The party in opposition did not object to the size of the Applicant’s proposed accessory structure but expressed concerns about its proximity to abutting lots as well as about the planned roof, which “would remove the limited remaining open space in that direction” as viewed from the party’s dwelling. (Exhibits 23, 26A.)

Persons in Support. The Board received letters in support of the application from persons living near the subject property. The persons in support indicated no objection to the Applicant’s proposal.

**FINDINGS OF FACT**

1. The property that is the subject of this application is an interior lot on the south side of Charleston Terrace, N.W., between Salem Lane and Kenmore Drive, with the address 4632 Charleston Terrace, N.W. (Square 1368, Lot 54).
2. The subject property is generally rectangular with an irregular rear lot line. The lot is 50 feet wide, with side lot lines extending approximately 100 feet on the west and 112 feet on the east side. The lot area is approximately 5,302 square feet. (Exhibit 4.)
3. The subject property is improved with a detached building devoted to use as a principal dwelling. The building is two stories in height and occupies approximately 1,960 square feet, resulting in a lot occupancy of approximately 37 percent. (Exhibits 4, 5, 20A.)
4. The subject property has an existing rear yard approximately 27.6 feet in depth. (Exhibit 4.)
5. The portion of the subject property occupied by the dwelling is relatively flat. The rear yard slopes downward away from the dwelling toward the rear lot line. The change in grade in the area that will be occupied by the new accessory structure is approximately six feet.
6. A retaining wall extends across the subject property approximately seven feet from the rear lot line. A solid wooden fence was installed above the retaining wall. (Exhibits 5, 32.)

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7. The Applicant proposed to replace an existing rear deck with a new one-story accessory structure in the rear yard of the subject property designed to function as a deck and pergola. The new accessory structure will not be attached to the existing dwelling but will extend into the required rear yard with a separation of 18 inches from the rear of the dwelling. The Applicant will construct a new deck, approximately 18 inches above grade and 40 square feet, between the dwelling and the new accessory building. (Exhibit 5.)
8. The accessory structure will be generally rectangular, approximately 15 feet, eight inches deep on the west side and 16 feet, two inches deep on the east. (Exhibits 5, 20A.)
9. The width of the new accessory structure will be approximately 38 feet, six inches, slightly wider than the existing dwelling. The eastern portion will be set back 7.7 feet from the east side lot line, consistent with the side yard provided by the existing dwelling. The western portion will be set back 3.8 feet from the west side lot line, less than the existing dwelling. (Exhibits 5, 20A.)
10. The accessory structure will not be enclosed with side walls. The majority of the deck floor will be covered by a roof that will rise approximately 11 feet, four inches above the deck floor at the center of the structure and eight feet, four inches above the floor at each end (east and west). The east and west portions of the roof will be connected by a pergola at the center. The pergola will be situated approximately 11 feet, three inches above the floor, with cross members less than 24 inches on center. (Exhibit 20A; Transcript of April 2, 2025 at 136.)
11. The highest point of the roof of the accessory building will be approximately 18 feet above grade, measured from the existing retaining wall in the rear yard. (Exhibit 20A.)
12. The southwest corner of the new accessory structure will extend to the existing retaining wall. A portion of the pergola will extend beyond the floor of the accessory structure, within 6.7 feet of the rear lot line. (Exhibit 5.)
13. The Applicant will remove the fence above the retaining wall and along the east side lot line at the subject property. (Exhibits 5, 20A.)
14. A solid wood fence extends along the side lot line in common with the abutting lot to the west. (Exhibit 20A.)
15. The Applicant will install two visual screens along the west side of the accessory structure. Each screen will be three feet wide and will extend from the floor to the roof, flanked on either side by railings. (Exhibits 31A, 31B.)
16. The Applicant will maintain landscaping along the east and west sides of the accessory structure, including greenery as well as a tree. The Applicant will install planters along the south portion of the accessory structure. (Transcript of April 2, 2025 at 136.)

17. The covered portion of the new accessory structure will have a building area of 652 square feet and will increase the lot occupancy at the subject property to 49.3 percent. The accessory structure will be located in the required rear yard of the Applicant's lot. (Exhibit 4.)
18. The lots abutting the subject property to the east and west are improved with detached principal dwellings.
19. The dwelling immediately to the west of the subject property contains a sunroom in the southeast corner of the building as well as windows that face the Applicant's lot. The sunroom is located so that its floor will be at approximately the same level as the roof of the Applicant's new accessory building. (Exhibit 20A.)
20. The lot abutting the subject property to the south fronts on MacArthur Boulevard and is located in a Residential Apartment (RA) zone, RA-1. The lot contains a multi-unit residential development in attached buildings.
21. The side wall of the building immediately to the south of the subject property contains several windows facing the Applicant's lot at a distance of approximately 12 feet. The lower windows are at approximately the same level as the Applicant's retaining wall, at least 3.5 feet below the floor of the planned accessory building. The upper window does not provide direct views of the Applicant's lot. (Exhibit 20A.)
22. Properties to the north of the subject property, across Charleston Terrace, contain detached principal dwellings. The surrounding neighborhood contains predominantly low-density residential uses.
23. The subject property is located in a Residential House (R) zone, R-1B. The Residential House zones are residential zones, designed to provide for stable, low- to moderate-density residential areas suitable for family life and supporting uses. (Subtitle D § 101.1.) The R zones are intended to (a) provide for the orderly development and use of land and structures in areas predominantly characterized by low- to moderate-density residential development; (b) recognize and reinforce the importance of neighborhood character, walkable neighborhoods, housing affordability, aging in place, preservation of housing stock, improvements to the overall environment, and low- and moderate-density housing to the overall housing mix and health of the city; (c) allow for limited compatible accessory and non-residential uses; (d) allow for the matter-of-right development of existing lots of record; (e) establish minimum lot area and lot width for the subdivision and creation of new lots of record; and (f) discourage multiple dwelling unit development. (Subtitle D § 101.2.)
24. The purposes of the R-1B zones are to (a) protect quiet residential areas now developed with detached houses and adjoining vacant areas likely to be developed for those purposes and (b) stabilize the residential areas and promote a suitable environment for family life.

(Subtitle D § 101.3.) The R-1B zone is intended to provide for areas predominantly developed with detached houses on moderately sized lots. (Subtitle D § 101.5.)

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

The Applicant requested special exceptions needed to allow a new accessory structure (a covered deck and pergola) that will increase the lot occupancy at the subject property above the amount permitted as a matter of right, will exceed the matter-of-right limit on building area for an accessory building, and will be located in the required rear yard of an existing two-story detached principal dwelling in the R-1B zone at 4632 Charleston Terrace, N.W. (Square 1368, Lot 54). The Board is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2), to grant special exceptions, as provided in the Zoning Regulations, where, in the judgment of the Board, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map, subject to specific requirements. (See Subtitle X § 901.2.)

The planned accessory building will increase lot occupancy at the subject property to 49.3 percent, where 40 percent is permitted as a matter of right (Subtitle D § 210.1). The building area of the accessory building will be 652 square feet, where a maximum of 450 square feet is permitted under Subtitle D § 5003.1. In accordance with Subtitle D § 5004.1(a), an accessory building may be located within a rear yard but not in a required rear yard. In this case, the planned accessory structure will be located entirely within the required rear yard.

Pursuant to Subtitle D § 5201.2, the Board is authorized to grant relief as a special exception from certain development standards to allow a new accessory structure to a residential building containing one principal dwelling on a non-alley lot, subject to the requirements of Subtitle D § 5201 and Subtitle X, Chapter 9. Eligible development standards include lot occupancy up to a maximum of 50 percent, the maximum building area of an accessory building, and provisions relating to rear yard, including restrictions on the location of an accessory building. (Subtitle D §§ 5201.2(a), (b), and (c).) Under Subtitle D § 5201.4, an application for a special exception under Subtitle D § 5201.2 must demonstrate that a proposed accessory structure will not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, specifically: (a) the light and air available to neighboring properties must not be unduly affected; (b) the privacy of use and enjoyment of neighboring properties must not be unduly compromised; and (c) the proposed accessory structure, together with the original building, as viewed from the street, alley, and other public way, must not substantially visually intrude on the character, scale, and pattern of houses along the street or alley frontage. As required by Subtitle D § 5201.4(d), the Applicant submitted graphical representations including plans, photographs, and elevation and section drawings sufficient to represent the relationship of the proposed accessory structure to adjacent buildings. Based on the findings of fact, and having given great weight to the recommendation of the Office of Planning, the Board concludes that the Applicant satisfied the requirements for approval of the special exceptions requested.

The new accessory structure will not unduly affect the light and air available to neighboring properties. The accessory structure will meet applicable development standards with respect to height and will utilize an open design, without enclosing walls, that will minimize its impacts on the availability of light and air to neighboring properties. The Applicant submitted a shadow study (Exhibit 20B) indicating that the shadow impacts of the accessory structure will be limited. Due to the sloping topography of the Applicant's lot, the accessory structure will be located lower than the dwellings on adjoining lots to the east and west. The light and air available to the building on the abutting lot to the south will not be affected by the new accessory structure given its open design and distance from the rear lot line of the subject property as well as the location of the windows on the building to the south primarily below the floor level of the new accessory structure.

The Board concludes that the planned accessory structure will not unduly compromise the privacy of use and enjoyment of neighboring properties. Views from the accessory structure will be minimized by its roof and location, lower than the dwellings on the adjoining lots to the east and west, as well as the privacy screens and landscaping that the Applicant will install around the perimeter of the accessory building. The accessory building will not provide direct views into nearby residences due to the topography of the subject property, the distances between the accessory structure and nearby dwellings, which are separated by existing rear and side yards, and the locations of windows on existing dwellings on adjoining lots, which generally do not provide direct views into the Applicant's rear yard. Views to and from the sunroom of the dwelling to the west will be limited by the roof of the new accessory building as well as the installation of screens and landscaping.

The Office of Planning noted some "potential privacy impacts" associated with the Applicant's proposal but determined that the planned accessory structure would not alter existing conditions with respect to privacy available to nearby dwellings. The Office of Planning found that the Applicant's proposal would not unduly compromise the use and enjoyment of neighboring properties with respect to privacy and therefore did not find a need to recommend that the Board require special treatment in the way of design, screening, or other features for the protection of adjacent and nearby properties, as is permitted under Subtitle D § 5201.5.<sup>1</sup> (Exhibit 30.)

The party in opposition expressed concerns regarding privacy, citing the proximity of the accessory structure to nearby dwellings. The Board concluded that approval of the Applicant's proposal, which includes the installation of privacy screens and landscaping to minimize views from the accessory structure, will not unduly compromise the privacy available to nearby properties. The accessory structure will be located in the rear yard of the subject property and will not enhance or create views into nearby dwellings, especially considering its location lower than the dwellings to the east and west, its roof, and the measures the Applicant will undertake to enhance privacy.

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<sup>1</sup> The Office of Planning suggested that the Applicant should consider "the provision of privacy screening at appropriate locations along the edge of the structure." (Exhibit 30.) The Applicant subsequently indicated an intent to install privacy screens on the west side as well as landscaping around the three sides of the accessory structure that will face adjoining properties.

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The new accessory structure, together with the original building, as viewed from a street, alley, or other public way will not substantially intrude on the character, scale, or pattern of houses along the street or alley frontage. The proposed accessory structure will not be visible from any street, including Charleston Terrace, alley, or other public way.

Subtitle X § 901.2. For the reasons discussed above, the Board concludes that approval of the application will not tend to adversely affect the use of neighboring properties in accordance with the Zoning Regulations and Zoning Map, as required under Subtitle X § 901.2. The planned accessory structure will continue the residential use of the subject property as a principal dwelling without creating adverse impacts on the light, air, or privacy available to nearby properties.

The Board was not persuaded by the party in opposition that the accessory structure would adversely affect the use and enjoyment of the abutting property to the west on the ground that “the new roof would completely dominate the view” of the subject property available from the dwelling and rear yard at the abutting property. The Zoning Regulations permit the location of an accessory building in the rear yard and thus do not require that a rear yard must be maintained as open space or preclude views of an accessory structure from nearby properties. The party in opposition did not identify any adverse impacts that would arise specifically from the zoning relief requested by the Applicant.

The Board further concludes that approval of the application will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map. The Applicant’s proposal is consistent with the purposes of the R-1B zones to protect quiet residential areas now developed with detached houses and to stabilize a residential area and promote a suitable environment for family life. Approval of the requested special exceptions is also consistent with the intent of the Residential House zones to provide for the orderly development and use of land and structures in areas predominantly characterized by low- to moderate-density residential development and to recognize the importance of the preservation of housing stock, improvements to the overall environment, and low- and moderate-density housing to the overall housing mix and health of the city.

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.) For the reasons discussed above, the Board agrees with OP’s recommendation that, in this case, the application should be approved.

The Board is also required to give “great weight” to the issues and concerns raised by an affected ANC. (Section 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)(3)(A)).) In this case, ANC 3D submitted a report that did not provide a recommendation to the Board but “transmit[ed] the arguments in support and opposition” to the application that were expressed at the ANC’s public meeting. The arguments in opposition included that the degree of relief requested (“three deviations from normal zoning”) created “a massive over-use of the backyard and an abuse of the applicant’s neighbors,” especially considering that the proposed roof “greatly increases the impact of the proposed addition,” particularly with respect to the light available to the abutting property to the south and the air available to the abutting properties to the east and west. The arguments in

support included that the application met “the relevant special exception criteria, namely there is no undue impact on any neighbor’s light and air,” that “neighbors are not entitled to a view in the context of the special exception test,” and that the “shadow study shows that there is minimal impact on neighboring properties.” (Exhibit 22.)

The “great weight” requirement extends only to the issues and concerns of the affected ANC that are legally relevant to the application at issue. *See Concerned Citizens of Brentwood v. District of Columbia Bd. of Zoning Adjustment*, 634 A.2d 1234, 1241 (D.C. 1993), *citing Bakers Local 118 v. District of Columbia Bd. of Zoning Adjustment*, 437 A.2d 176, 180 (D.C. 1981). The Board credits the views expressed in the ANC’s letter but, for the reasons discussed above, did not find the arguments against approval of the application persuasive advice that warranted denial of the zoning relief requested.

Exceptions to the Proposed Order. Because a majority of the Board members participating in the issuance of this order did not personally hear the evidence in this application, a proposed order was provided to the parties to afford them an opportunity to present written exceptions, in accordance with D.C. Official Code § 2-509(d).

Based on the findings of fact and conclusions of law, the Board concludes that the Applicant has satisfied the burden of proof with respect to the request for special exceptions under Subtitle D § 5201 from the lot occupancy requirements under Subtitle D § 210.1, from the building area requirements for an accessory building under Subtitle D § 5003.1, and from the requirements for the location of an accessory building under Subtitle D § 5004.1(a) to allow a new accessory structure (deck and pergola) in the required rear yard of an existing two-story detached principal dwelling in the R-1B zone at 4632 Charleston Terrace, N.W. (Square 1368, Lot 54). Accordingly, it is **ORDERED** that the application is **GRANTED** consistent with the plans shown as Exhibits 20A and 31B in the record:

**VOTE:**     **3-1-1**     (Frederick L. Hill, Carl H. Blake, and Chrishaun S. Smith voting to approve; Gwen M. Wright opposed; one Board seat vacant)

**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:** \_\_\_\_\_

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, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF BUILDINGS 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, 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.