

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA Application No. 18878-E
Alba 12th Street, LLC
1017 12th Street, NW (Square 316, Lot 281)

HEARING DATE (18878): December 9, 2014
DECISION DATE (18878): January 6, 2015
DECISION DATE ON REMAND (18878-B): November 1, 2017
REMAND ORDER ISSUANCE DATE (18878-B): February 11, 2019

3rd TIME EXTENSION DECISION DATE (18878-E): April 5, 2023

SUMMARY ORDER ON REQUEST FOR
TWO-YEAR TIME EXTENSION

ORIGINAL APPLICATION. In Application No. 18878, the Board of Zoning Adjustment (“**Board**” or “**BZA**”) approved the request by Alba 12th Street, LLC (the “**Applicant**”) for variances from the floor area ratio, rear yard, and parking requirements to allow the construction of an office building in the DD/C-2C zone. The Board issued Order No. 18878 on September 9, 2015 (the “**Order**,” Exhibit 7). The Order was appealed to the Court of Appeals, which tolled the expiration of the Order and was remanded on September 29, 2017. The Board subsequently issued its Decision and Order on Remand (the “**Remand Order**”, Order No. 18878-B in Exhibit 6) on February 11, 2019. Pursuant to Subtitle Y § 604.11, the Remand Order became effective ten days after issuance. Pursuant to Subtitle Y § 702.1, the Remand Order was valid for two years.

PREVIOUS TIME EXTENSIONS. In 2021, the Applicant filed an application to extend the Remand Order’s validity by one year, per Subtitle Y § 705.7, as adopted by the Zoning Commission’s emergency action in Z.C. Case No. 20-26B. BZA Order No. 18878-C was issued on February 8, 2021, which extended the validity of the Remand Order for one year until February 21, 2022. (Exhibit 5.) In 2022, the Applicant filed and was granted a second time extension application per Subtitle Y § 705.7. BZA Order No. 18878-D extended the validity of the Remand Order by an additional year until February 21, 2023. (Exhibit 3.)

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Board of Zoning Adjustment
District of Columbia
CASE NO.18878E
EXHIBIT NO.13

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REQUEST FOR TWO-YEAR TIME EXTENSION. On February 10, 2023, the Applicant submitted a request that the Board grant a two-year extension of Order No. 18878. (Exhibits 1-8.)

NOTICE OF THE REQUEST. Pursuant to Subtitle Y §§ 705.2(a), the Applicant provided proper and timely notice of the request for time extension to the parties to the underlying case. (Exhibit 4.)

PARTIES. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 2C.

ANC REPORT. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on March 14, 2023, at which a quorum was present, the ANC voted to support the application. (Exhibit 12.) The ANC report raised no issues or concerns.

ANC 2C04 Commissioner Kristin Roe submitted a letter in support of the application. (Exhibit 11.)

OFFICE OF PLANNING ("OP") REPORT. OP submitted a report recommending approval of the time extension. (Exhibit 10.)

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 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.

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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


It is therefore **ORDERED** that the request for a two-year time extension to the validity of the Board's approval in Order No. 18878 is hereby **APPROVED**, and the Order shall be valid until **February 21, 2025**.

VOTE: 3-0-2 (Lorna L. John, Chrishaun S. Smith, and Anthony J. Hood to APPROVE;
Frederick L. Hill not participating, 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: April 11, 2023

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.