

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



**BZA Application No. 20821
1717 E Street NE, LLC
1717 E Street, NE (Square 4546, Lots 165, 166, and 167)**

HEARING DATE: December 21, 2022 and March 22, 2023
DECISION DATE: March 22, 2023

SUMMARY ORDER

RELIEF REQUESTED. The application requests the following relief in order to construct two new, semi-detached, three-story, 3-unit, apartment houses in the RF-1 zone:

- Special Exception from the subdivision requirements of Subtitle C § 302.2, pursuant to Subtitle C § 305 and Subtitle X § 901.2
- Special Exception from the rear addition requirements of Subtitle E § 205.4, pursuant to Subtitle E § 205.5, Subtitle E § 5201, and Subtitle X § 901.2
- Area Variance from the front setback requirements of Subtitle E § 305.1, pursuant to Subtitle X § 1002
- Area Variance from the rear yard requirements of Subtitle E § 306.1, pursuant to Subtitle X § 1002
- Use Variance from the matter-of-right uses of Subtitle U § 301, pursuant to Subtitle X § 1002

The zoning relief requested in this case was self-certified. (Exhibit 53A (Final Revised); Exhibit 34B (1st Revised); Exhibit 4 (Original).)¹

PRIOR APPLICATIONS. In 2014, BZA Order No. 18692 granted use variance relief on the property to construct a new eight-unit apartment house. The owner was unable to move forward with the project due to lack of approval from DC Water.

PARTIES. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 7D², 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).

¹ The application was amended to remove area variance relief from the height requirements of Subtitle E § 303.1 and the front setback requirements of Subtitle B § 315.1. The project was also revised from four to three stories and reduced from 8 total units to 6 units.

² The application was originally noticed to ANC 6A, which was the affected ANC prior to ANC redistricting effective January 1, 2023.

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. ANC 7D submitted a report that indicated 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 57.) The ANC report raised no issues or concerns.

The originally noticed ANC 6A submitted a report that indicated at a regularly scheduled, properly noticed public meeting on December 8, 2022, at which a quorum was present, the ANC voted to support the application and raised no issues or concerns. (Exhibit 37.)

OFFICE OF PLANNING ("OP") REPORT. OP submitted a supplemental report recommending approval of the application. (Exhibit 54.)

OP's first report, submitted on December 9, 2022, recommended denial of the area variance requests for height and front setback relief. The Applicant subsequently amended the application to remove those requests for relief.

DISTRICT DEPARTMENT OF TRANSPORTATION ("DDOT") REPORT. DDOT submitted a report indicating that it had no objection to the application because it concluded that the relief would not result in any adverse impacts to the District's transportation network. (Exhibit 35.)

DEPARTMENT OF PUBLIC WORKS ("DPW") REPORT. DPW submitted a report prior to the amended application that noted that collection operations could be impacted if occurring simultaneously with construction, however, the rear alley is double wide and can accommodate two way traffic. (Exhibit 40.)

DC WATER LETTER. DC Water provided a letter to the Applicant in 2021 recommending conceptual approval of the project. (Exhibit 36E.)

PERSONS IN SUPPORT. The Board received 11 letters from neighbors in support of the application. (Exhibits 23-28, 30, 41-44.)

At the March 22, 2023 Public Hearing, Sondra Philips-Gilbert, Lloyd Smith, and Willie Smith provided public testimony in support of the application.

PERSONS IN OPPOSITION. The Board received four letters from neighbors in opposition to the application. (Exhibits 38, 39, 49, 60.)

At the December 21, 2023 Public Hearing, Thomas Hines, John Cotton, and Ahmet Kilic provided public testimony in opposition to the application.

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 and variance 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;
- Pursuant to Subtitle X § 901.2(c), the relief satisfies the specified conditions for special exception relief;
- There exists an exceptional or extraordinary situation or condition related to the property;
- The exceptional condition creates a practical difficulty, in the case of an area variance, or an undue hardship, in the case of a use variance, in complying with the Zoning Regulations;
- The relief can be granted without substantial detriment to the public good; and
- The relief can be granted without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

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 and therefore **APPROVES** the following relief:

- Special Exception from the subdivision requirements of Subtitle C § 302.2, pursuant to Subtitle C § 305 and Subtitle X § 901.2
- Special Exception from the rear addition requirements of Subtitle E § 205.4, pursuant to Subtitle E § 205.5, Subtitle E § 5201, and Subtitle X § 901.2
- Area Variance from the front setback requirements of Subtitle E § 305.1, pursuant to Subtitle X § 1002
- Area Variance from the rear yard requirements of Subtitle E § 306.1, pursuant to Subtitle X § 1002
- Use Variance from the matter-of-right uses of Subtitle U § 301, pursuant to Subtitle X § 1002

Subject to the following **CONDITION**:

1. The project shall be constructed in accordance with the plans submitted as Exhibit 53B in the record,³ as required by Subtitle Y §§ 604.9 and 604.10.

³ Self-Certification. The zoning relief requested in this case was self-certified, pursuant to Subtitle Y § 300.6. In granting the requested self-certified relief subject to the plans submitted with the Application, the Board makes no

VOTE: 5-0-0

(Frederick L. Hill, Lorna L. John, Carl H. Blake, Chrishaun S. Smith, and Joseph S. Imamura 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: March 27, 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.

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,

finding that the requested relief is either necessary or sufficient to authorize the proposed construction project described in the Application and depicted on the approved plans.

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.