

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



**BZA Application No. 20492
5116 PSRV, LLC
2405 Alabama Avenue, SE (PAR 02210066)**

HEARING DATE: March 2 and March 16, 2022¹
DECISION DATE: March 16, 2022

SUMMARY ORDER

RELIEF REQUESTED. The application requests the following relief in order to raze the existing building, and to construct a new, detached, three-story, 16-unit residential building, with cellar and penthouse, in the RA-1 Zone:

- Special Exception under the new residential development provisions of Subtitle U § 421.1, pursuant to Subtitle X § 901.2
- Area Variance from the side yard requirements of Subtitle F § 306.1, pursuant to Subtitle X, Chapter 10

The zoning relief requested in this case was self-certified. (Exhibit 40D (Final Revised); Exhibit 4 (Original).)²

PARTIES. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 8B, 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 did not submit a written report to the record.

OFFICE OF PLANNING ("OP") REPORT. The original OP report, dated October 22, 2021, stated that OP was not able to make a recommendation. (Exhibit 33.) OP submitted a supplemental report dated February 18, 2022 recommending approval of the application. (Exhibit 41.)

¹ The Public Hearing was postponed at the Applicant's request from September 15, 2021 and November 3, 2021, then administratively rescheduled from the February 16, 2022 hearing to March 2, 2022.

² The project was revised to reduce the height of the building, therefore only one side yard needed relief from the zoning requirements. The relief requested did not change from the original application.

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 30.)

PERSONS IN OPPOSITION. The Board received two letters in opposition from the adjacent neighbor at 2401 Alabama Avenue, SE. (Exhibits 31 and 49.)

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 under the new residential development provisions of Subtitle U § 421.1, pursuant to Subtitle X § 901.2
- Area Variance from the side yard requirements of Subtitle F § 306.1, pursuant to Subtitle X, Chapter 10

Subject to the following **CONDITION**:

1. The project shall be constructed in accordance with the plans submitted as Exhibit 48B in the record,³ as required by Subtitle Y §§ 604.9 and 604.10.

VOTE: 3-2-0 (Frederick L. Hill, Lorna L. John, Carl H. Blake to APPROVE; Chrishaun S. Smith and Peter G. May to DENY)⁴

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. BORDIN

Director, Office of Zoning

FINAL DATE OF ORDER: March 22, 2022

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

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 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. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any such application that would require additional or different zoning relief from what is granted by this Order.

⁴ Board Members John and Smith reviewed the record to participate and vote in the Public Hearing on March 16, 2022.

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.