GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA Application No. 21143
Trustees for Harvard University
3100 R Street, NW (Square 1281, Lot 836)

HEARING DATE: October 23, 2024[1]
DECISION DATE: October 23, 2024

SUMMARY ORDER

RELIEF REQUESTED. The application requests the following relief in order to permit a nonprofit organization use in an existing, semi-detached, four-story with basement residential building in the R-1B/GT zone:

- Special Exception under Subtitle U § 203.1(o) to allow the use of an existing residential building by a nonprofit organization for the purposes of the nonprofit organization, pursuant to Subtitle X § 901.2
- Area Variance from the gross floor area requirements of Subtitle U § 203.1(o)(2), pursuant to Subtitle X §1002

The zoning relief requested in this case was self-certified. (Exhibit 54 (Final Revised.)[2]

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

At the July 24, 2024 public meeting, the Board granted party status in opposition to Daniel Chao and Erin Drouin, and denied party status in opposition to Katherine Fitzgerald and Amelie Stroh. Prior to the October 23, 2024 public hearing, Mr. Chao and Ms. Drouin submitted letters withdrawing their opposition. (Exhibits 52, 53.)

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.

[1] The public hearing was postponed from July 17, 2024 to July 24, 2024 at Applicant's request and then to October 23, 2024, at ANC 2E's request.

[2] The self-certification form was revised to update the table of calculations. The requested relief did not change. See original self-certification form in Exhibit 4.

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EXHIBIT NO.58

ANC REPORT. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on September 30, 2024, at which a quorum was present, the ANC voted to support the application. (Exhibit 47.) The ANC report raised concerns regarding the non-residential use and impact on community "fabric". The ANC noted a Memorandum of Agreement ("MOA") between the Applicant, ANC, Daniel Chao, and Erin Drouin. (Exhibit 51.) The Board did not adopt conditions in the MOA as part of the Order, however, acknowledged the agreement between the Applicant, ANC 2E, Daniel Chao, and Erin Drouin.

ANC 2E Chair Gwendolyn Lohse testified on behalf of ANC 2E at the October 23, 2024 Public Hearing, where she noted that the ANC would want the conditions in the MOA be included as part of the Board's final order.

OFFICE OF PLANNING ("OP") REPORT. OP submitted a report recommending approval of the application. (Exhibit 50.) OP's recommendation included two conditions relating to a term limit of the order and hours of operation for the non-profit use. The Board adopted these conditions as part of the final Order.

DISTRICT DEPARTMENT OF TRANSPORTATION ("DDOT") REPORT. DDOT did not submit a report to the record.

PERSONS IN SUPPORT. The Board received letters from neighbors in support of the application.

PERSONS IN OPPOSITION. The Board received letters from neighbors 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:

- Special Exception under Subtitle U § 203.1(o) to allow the use of an existing residential building by a nonprofit organization for the purposes of the nonprofit organization, pursuant to Subtitle X § 901.2
- Area Variance from the gross floor area requirements of Subtitle U § 203.1(o)(2), pursuant to Subtitle X §1002

Accordingly, it is **ORDERED** that the application is **GRANTED** consistent with the plans shown in Exhibits 5 and 18 of the record, as required under Subtitle Y §§ 604.9 and 604.10, subject to the following **CONDITIONS**:

1. The proposed office operations of the building shall expire two (2) years from the date the BZA Order approving the Application is final or December 31, 2026, whichever is later.

2. The proposed office operations will be limited to Monday through Friday, from 8 a.m. to 6 p.m., except that no office meetings or conferences shall take place at the Property before 8:30 a.m. No more than four (4) Dumbarton Oaks employees, which includes contractors and subcontractors assigned to work at the Property (collectively, the "Employees"), may be assigned to work at the building at one time.

VOTE: **4-0-1** (Frederick L. Hill, Carl H. Blake, Chrishaun S. Smith, and Tammy M. Stidham to APPROVE; Lorna L. John not present, not participating)

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: November 5, 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.

PURSUANT TO 11 DCMR SUBTITLE A § 303, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

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.