

**APPLICANT'S PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW
IN BOARD OF ZONING ADJUSTMENT APPLICATION NO. 19680**

Application No. 19680 of Quentin Ventures LLC pursuant to Subtitle X, § 901.2 of the Zoning Regulations of 2016 for a special exception under Subtitle E, § 205.5 to permit an addition to a row dwelling extending more than ten feet beyond the rear wall of an adjacent property at 1948 2nd Street, N.W. in the RF-1 Zone District (Square 3088, Lot 0050).

HEARING DATE: February 21, 2018

DECISION DATE: February 21, 2018

DECISION AND ORDER

PRELIMINARY MATTERS

The Applicant filed the instant application on November 30, 2017, and the public hearing was originally set down for January 31, 2018. At the request of ANC 1B, the Applicant filed a motion to postpone the public hearing to allow for the Applicant to meet with the ANC 1B Zoning, Preservation and Development Committee prior to appearing before the ANC at a regular meeting on February 1, 2018. The Board granted the motion and the public hearing was pushed back to February 21, 2018.

FINDINGS OF FACT

1. Lawrence Braithwaite is the sole member and manager of the Applicant and he resides at 1946 2nd Street, N.W., immediately adjacent to the subject property.
2. In 2016, Mr. Braithwaite completed the renovation of 1946 2nd Street, N.W. under the 1958 Zoning Regulations by adding a two-story addition that extended more than 10 feet beyond the rear wall of the adjacent row dwellings.
3. The subject property is a lot 17.25 feet wide and 144.50 feet in length with a lot area of 2,494 square feet.
4. The subject property is improved by a row dwelling and has 31% lot occupancy.
5. The Applicant's plan is for a two-story addition to the subject property that will be virtually identical to the addition made to 1946 2nd Street, NW and will result in a two-unit flat comprising a basement unit and a two-bedroom unit on the 1st and 2nd floors, which, with the addition of a new garage, will comprise a lot occupancy of 58.2%, a figure that is below the matter-of-right lot occupancy for the RF-1 zone district.
6. The 1900-block on the west side of 2nd Street NW is characterized by exceptionally long and narrow lots, originally improved by rowhouses only thirty feet (30') deep. The

Applicant demonstrated with an aerial photograph of the block that properties to the south of the subject property (other than 1946 2nd Street NW) have made additions extending into the rear yards.

7. The Applicant provided axonometric renderings of the existing conditions and the proposed addition in the context of the adjacent properties on either side of the subject property, which supported the conclusion that there
8. The Applicant's proposed addition will not be visible to properties to the south of the subject property and the two immediate neighbors to the north --- Gwendolyn Ford at 1950 2nd Street NW and Martin Hardy at 1952 2nd Street NW --- have both consented in writing to the proposed addition (Exhibits 37 and 36, respectively).
9. The addition will extend eighteen feet (18') beyond the rear wall of the subject property and twenty-three feet (23') beyond the rear wall of the adjacent property to the north, 1950 2nd Street NW.
10. On January 16, 2018, the Applicant's architect appeared before the ANC 1B Zoning, Preservation and Development Committee to present the Applicant's plans and was informed that the Applicant consider adjusting its plans because the Committee does not support special exceptions under the new regulations extending ten feet beyond the rear wall of adjacent buildings.
11. The Applicant declined to make changes to its plans and sought to be included on the agenda for the February 1, 2018 regular meeting of ANC 1B. Mr. Braithwaite appeared ready to present the Applicant's special exception request, but was not afforded an opportunity to do so. After Mr. Braithwaite left the ANC 1B meeting, the Commissioners decided, without having heard the details of the application, to vote to recommend denial of the application.

Governmental Reports

12. The Office of Planning (OP) submitted a memorandum dated February 9, 2018, recommending the Applicant's request for special exception relief be granted. OP found only a minimal impact on light and air and privacy in the use and enjoyment of neighboring properties, especially in view of the consent of the two most affected neighbors to the north at 1950 and 1952 2nd Street NW.
13. Crystal Myers, Case Manager at OP, testified at the public hearing that the proposed addition does not represent a significant change to the visual character of the neighborhood given the renovations made to other properties in the block which extended as far as or further than the Applicant's proposal. The proposed addition is not visible from the street.
14. District Department of Transportation submitted a memorandum dated January 19, 2018, in which it indicated that there was no objection to the proposed addition.

Report of Advisory Neighborhood Commission 1B

15. The record reflects that ANC 1B opposed the application, as evidenced by Exhibit 39, which reflects the result of a duly noticed public meeting of ANC 1B on February 1, 2018, at which a quorum was present. While ANC 1B plainly opposed the application, its report contained no rationale for its opposition.
16. Patrick Nelson, the ANC 1B Commissioner designated by ANC 1B to present the ANC report and Anita Norman, the SMD Commissioner for ANC 1B01 in which the subject property is located, testified regarding the ANC 1B report. Mr. Nelson, who is also the Chairman of the Zoning, Preservation and Development Committee, stated that the Committee wanted the Applicant to provide a rationale or explanation for why the addition was necessary or to modify its plans.

Other Witness Testimony

17. Mr. Reginald Duckett, who resides at 1940 2nd Street NW, a few houses to the south of the subject property, testified in opposition to the Application on the grounds that the addition would extend too far into the rear yard. Mr. Duckett believed that the proposed addition would extend beyond the existing addition to 1946 2nd Street NW. When it was clarified that the proposed extension is identical to the addition at 1946 2nd Street NW, Mr. Duckett withdrew his opposition.
18. Mr. Martin Hardy, who resides at 1952 2nd Street NW, testified in support of the Application. Mr. Hardy observed that many of the properties in the block had extensions into their rear yards comparable to what is being proposed by the Applicant and that the arbitrary 10-foot restriction on additions was an infringement of property rights.

CONCLUSIONS OF LAW

The Board is required under Section 13 of the Advisory Neighborhood Commission Act of 1975, effective October 10, 1975 (D.C. Law 1-21), as amended, now codified at D.C. Code § 1-309.10(d)(3)(A)) (2014 ed.) to give “great weight” to the issues and concerns raised in the affected ANC’s written recommendations. To give “great weight” the Board must articulate with particularity and precision the reasons why the ANC does or does not offer persuasive advice under the circumstances and make specific findings and conclusions with respect to each of the ANC’s issues and concerns. In Metropole v. Board of Zoning Adjustment, 141 A.3d 1079 (2016), the Court of Appeals made clear that the statute does not require the BZA to give “great weight” to the ANC’s recommendation, but only to the issues and concerns raised by the ANC in reaching its decision.

The Board concludes that it has accorded ANC 1B the “great weight” to which it is entitled. ANC 1B did not articulate any issue or concern in its report or in the testimony presented, therefore, the Board is not obliged to accord “great weight” to ANC 1B’s

recommendation and hereby declines to do so.

For the reasons stated above, the Board concludes: (i) that the Applicant has satisfied the burden of proof with respect to the application for a special exception under Subtitle E, § 205.5 to allow the construction of an addition to existing row dwelling that would extend eighteen feet (18') beyond the rear wall of the adjacent row dwelling at 1950 2nd Street, N.W. and (ii) that the requested relief is in harmony with the general purpose and intent of the Zoning Regulations and the Zoning Map and can be granted without adversely affecting the use of neighboring property in accordance with the regulations and the map.

Accordingly, it is ORDERED that this special exception application is GRANTED.

Vote: 5-0-0 (Frederick L. Hill, Peter G. May, Lorna John, Carlton Hart, Lesylee White 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: _____, 2018

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.

CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of April, 2018, a copy of the foregoing Proposed Findings of Fact and Conclusions of Law in BZA Application No. 19680 for special exception relief for property located at 1948 2nd Street, N.W. (Lot 0050, Square 3088) was mailed US Mail, first class, postage pre-paid, addressed to the following:

Advisory Neighborhood Commission 1B
2000 14th Street, N.W. – Suite 100B
Washington, D.C. 20009

D.C. Office of Planning
1100 4th Street, S.W. – Suite 650E
Washington, D.C. 20024
Attn: Crystal Myers, AICP


George R. Keys, Jr.