

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 20204 of 1001 Bryant Street LLC, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the new residential development provisions of Subtitle U § 421.1, to combine the two lots into one record lot and construct a new 16-unit apartment house in the RA-1 Zone at premises 1001-1003 Bryant Street, N.E. (Square 3869, Lots 25 and 26).

HEARING DATES: February 12, March 4, and July 29, 2020¹
DECISION DATE: September 16, 2020

DECISION AND ORDER

This self-certified application was submitted on November 26, 2019 on behalf of 1001 Bryant Street LLC, the owner of the property that is the subject of the application (the “**Applicant**”). Following a public hearing, the Board voted to grant the application.

PRELIMINARY MATTERS

Notice of Application and Notice of Hearing. By memoranda dated December 30, 2019, the Office of Zoning provided notice of the application and of the public hearing to the Applicant, the Office of Planning (“**OP**”), the District Department of Transportation (“**DDOT**”), the Department of Parks and Recreation, the Office of the Deputy Mayor for Education, the Office of Advisory Neighborhood Commissions, the Council member for Ward 5 as well as the Chairman and the four at-large members of the D.C. Council, Advisory Neighborhood Commission (“**ANC**”) 5C, the ANC in which the subject property is located, Single Member District/ANC 5C05, and the owners of all property within 200 feet of the subject property. Notice was published in the *District of Columbia Register* on July 24, 2020. (67 DCR 31.)

Party Status. The Applicant and ANC 5C were automatically parties in this proceeding. There were no requests for party status.

Applicant’s Case. The Applicant provided evidence and testimony in support of the application

¹ This application was originally scheduled for public hearing on February 12, 2020. It was postponed twice - to March 4, 2020 and April 22, 2020 - at the Applicant’s request. The hearing was rescheduled for a virtual public hearing on July 29, 2020 based on the closures and postponements related to the public health emergency declared on March 11, 2020. Notice of the virtual public hearing was provided to the parties and to the property owners within 200 feet of the subject property.

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from Matt Scorzafava as well as from Michael Cross, the project architect, and Elizabeth Stuart, the project designer.

OP Report. By memorandum dated February 21, 2020, the Office of Planning recommended approval of the zoning relief requested by the Applicant. (Exhibit No. 36.)

DDOT. By memorandum dated February 14, 2020, the District Department of Transportation indicated no objection to approval of the zoning application. (Exhibit No. 37.)

ANC. By report submitted August 14, 2020, ANC 5C indicated that, at a public meeting on August 12, 2020 with a quorum present, the ANC voted to oppose the application. (Exhibit No. 68.)

Persons in opposition. The Board heard testimony and received letters in opposition to the application from persons living in the vicinity of the subject property. The letters generally asserted that the proposed new development would cause adverse traffic and parking impacts on the narrow, one-way street and objected to the proliferation of multi-family buildings in a neighborhood designed for detached principal dwellings.

FINDINGS OF FACT

1. The property that is the subject of this application is currently configured as two adjoining record lots, Lots 25 and 26 in Square 3869, with addresses of 1001 and 1003 Bryant Street, N.E. The parcel is an irregularly shaped corner lot bounded by Bryant Street to the northeast, Rhode Island Avenue to the north, 10th Street to the west, a residential property to the southeast, and a public alley 16 feet wide at the rear, opposite Bryant Street.
2. Lot 26 is rectangular, 45 feet wide and 110 feet deep. Lot 25, which abuts Lot 26 to the west, is generally triangular and is also 110 feet deep along its eastern lot line (shared with Lot 26). Lot 25 has 80 feet of frontage along Bryant Street, approximately 126 feet along 10th Street on the west, and approximately 18 feet along the public alley on the south. The lot area of the combined parcel is 10,355 square feet.
3. The parcel is subject to a building restriction line 15 feet from the western lot line of Lot 25 along 10th Street.
4. Each lot was improved with a two-story detached dwelling.
5. The Applicant planned to raze the existing dwellings, subdivide the two existing lots to create one lot of record, and construct a new apartment house at the subject property. As proposed, the building will have three floors, with a cellar and penthouse, and will contain 16 apartments, a mix of two- and three-bedroom units. A typical floor plan depicted four units on each floor. At least one apartment will qualify as an Inclusionary Zoning (“IZ”)

- unit.² The Applicant testified that the IZ unit will be a three-bedroom apartment provided at 60 percent median family income. (Transcript (“Tr.”) of July 29, 2020 at 174.)
6. The new building will satisfy the development standards applicable in the RA-1 zone.
 - a) Lot occupancy will be 36 percent, where a maximum of 40 percent is permitted as a matter of right. (Subtitle F § 304.1.)
 - b) The building will have three stories and a building height of 34 feet, nine inches, where maximums of 40 feet and three stories are permitted. (Subtitle F §§ 303.1, 303.2.)
 - c) The rear yard setback will be 24 feet, five inches, where a minimum of 20 feet is required. (Subtitle F § 305.1.)
 - d) The building will have side yards of 15 feet on the west and eight feet, nine inches on the east, where a minimum of eight feet is required. (Subtitle F § 306.)
 - e) The floor area ratio (“FAR”) will be 1.07 with IZ, where a maximum of 1.08 FAR is permitted with IZ. (Subtitle F § 302.)
 7. The project will provide five vehicle parking spaces (three full-size and two compact spaces) in a parking area at the rear of the lot, in excess of the minimum requirement of two spaces. (Subtitle C § 702.1.) The building will provide five long-term, secure indoor bicycle parking spaces located in the cellar and on the ground floor.
 8. The public alley at the rear of the property will provide access to the parking area. Deliveries, loading, and trash collection will also occur in the rear of the property via the alley.
 9. The proposed development will provide an enclosed trash area at the rear of the property, more than 45 feet away from a parking lot serving an adjacent building.
 10. The Applicant’s landscaping plan for the planned development includes the retention of some existing trees in the front of the property as well as the addition of new trees, in the eastern portion of the site, and shrubs along the 10th Street frontage. The site does not contain any heritage trees. The Applicant testified that most, if not all, the existing special trees on the subject property will be retained, especially along 10th Street. (Tr. at 177.)
 11. The Applicant revised the design originally proposed for the new apartment house in response to comments from the Office of Planning. Because OP asserted that the location of a building facing Rhode Island Avenue justified a more prominent treatment at the corner of 10th and Bryant Streets, the Applicant modified the plans to relocate the front entrance of the building “to be more open toward Rhode Island Avenue.” OP also

² See Subtitle F § 105.1 and Subtitle C, Chapter 10, Inclusionary Zoning.

commented that the building configuration should respond to the irregular shape of the site and better define the street edge on both 10th and Bryant Streets, but the Applicant responded that the proposed building orientation could not be changed due to an existing water utility easement and the need for a side yard. The Applicant also declined to add balconies on street-facing façades, citing the proposed lot occupancy of the project. According to the Applicant, the addition of balconies would have required a reduction in the size of the apartments so as not to exceed the permitted lot occupancy. (Exhibit No. 35.)

12. The area surrounding the subject property is predominantly residential, with a variety of housing types ranging from detached principal dwellings to large apartment houses. Two small apartment houses are located immediately to the east of the subject property; larger multi-family buildings are located nearby across Rhode Island Avenue. The area also contains numerous commercial uses, including a large retail shopping center located to the south of the Applicant's property.
13. The subject property is located approximately one-third mile from the Rhode Island Avenue-Brentwood Metrorail station. Metrobus stops are also available in the vicinity, including one at Rhode Island Avenue and 10th Street.
14. According to Enrollment Boundary System Information published on the D.C. Public Schools website, the "in-boundary" public schools serving the subject property are Noyes Elementary School, Brookland Middle School, and Dunbar High School. The 2017 utilization rates for those schools were 53 percent or lower.
15. The subject property is within approximately a half-mile from two public recreation centers, Noyes and Brentwood.
16. The subject property is located in a Residential Apartment (RA) zone, RA-1. The RA zones permit urban residential development and compatible institutional and semi-public buildings. (Subtitle F § 100.1.) The RA zones are designed to be mapped in areas identified as moderate- or high-density residential areas suitable for multiple dwelling unit development and supporting uses. (Subtitle F § 100.2.) The provisions of the RA zones are intended to: (a) provide for the orderly development and use of land and structures in areas characterized by predominantly moderate- to high-density residential uses; (b) permit flexibility by allowing all types of residential development; (c) promote stable residential areas while permitting a variety of types of urban residential neighborhoods; (d) promote a walkable living environment; (e) allow limited non-residential uses that are compatible with adjoining residential uses; (f) encourage compatibility between the location of new buildings or construction and the existing neighborhood; and (g) ensure that buildings and developments around fixed rail stations, transit hubs, and streetcar lines are oriented to support active use of public transportation and safety of public spaces. (Subtitle F § 100.3.)

17. The purposes of the RA-1 zone are to (a) permit flexibility of design by permitting all types of urban residential development if they conform to the height, density, and area requirements established for these districts; and (b) permit the construction of those institutional and semi-public buildings that would be compatible with adjoining residential uses and that are excluded from the more restrictive residential zones. (Subtitle F § 300.1.) The RA-1 zone is designed to be mapped in areas identified as low-, moderate- or medium-density residential areas suitable for residential life and supporting uses. (Subtitle F § 300.2.)

CONCLUSIONS OF LAW AND OPINION

The Applicant seeks a special exception under the new residential development provisions of Subtitle U § 421.1 to allow a new 16-unit apartment house in the RA-1 zone at 1001-1003 Bryant Street, N.E. (Square 3869, Lots 25 and 26). The Board is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2) (2012 Repl.) to grant special exceptions, as provided in the Zoning Regulations, where, in the judgment of the Board, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map, subject to specific conditions. (*See* 11 DCMR Subtitle X § 901.2.)

Pursuant to Subtitle U § 421, the Board may approve a new residential development in the RA-1 zone that does not comprise all one-family detached and semi-detached dwellings by special exception subject to the standards and requirements indicated in that section. As required by Subtitle U § 421.2, the application was referred to the relevant agencies for comment on the capacity of area schools to accommodate the number of students who could be expected to live in the project as well as the streets, recreation, and other services to accommodate residents expected to live in the project. The application was also referred to the Office of Planning, in accordance with Subtitle U § 421.3, for comment and recommendation on the proposed site plan, arrangement of buildings and structures, and provisions of light, air, parking, recreation, landscaping, and grading as they relate to the surrounding neighborhood, and the relationship of the proposed project to public plans and projects. As required by Subtitle U § 421.4, the Applicant submitted a site plan and set of typical floor plans and elevations, grading plan (existing and final), and landscaping plan. The application did not propose significant changes in grading or any new rights of way or easements.

Based on the findings of fact, the Board concludes that the application satisfies the requirements for special exception approval consistent with Subtitle U § 421. The proposed development will comply with development standards applicable in the RA-1 zone, ensuring that the new building will not adversely affect the use of neighboring properties with respect to light, air, or privacy. The Board credits OP's conclusion that the schools, recreation centers, and other services are sufficient to accommodate the residents who could be expected to live in the new 16-unit apartment house.

The project will exceed the minimum requirement for vehicular parking in addition to providing secure long-term bicycle parking inside the building. The Board heard concerns raised by ANC 5C as well as testimony from persons in opposition to the application that the project will exacerbate existing traffic congestion and parking demand near the subject property. Considering especially the relatively small number of new apartments as well as the building's proximity to public transportation, and noting DDOT's lack of objection to the proposal, the Board concludes that approval of the application will not cause adverse impacts with respect to traffic or parking.

The Board concurs with OP's conclusion that the application proposed a site plan, building arrangement, and landscaping plan appropriately relating to the surrounding neighborhood. The Applicant's revised design responded to OP's recommendations consistent with existing site constraints. The ANC opposed the building design and orientation, stating that the planned development would contrast substantially with and diminish the importance of existing dwellings on the street. The Board does not agree that the appearance of the new building will be inconsistent with existing buildings or incompatible with the neighborhood character. The application demonstrated that the subject property is located in an area with a variety of building types and uses and is readily visible from Rhode Island Avenue. The Board agrees with the Applicant that the proposed design is suitable for a building that will provide a transition between the lower scale of detached dwellings around Bryant Street and the larger buildings and higher density residential and commercial development along Rhode Island Avenue. The building arrangement will provide access to parking and trash collection along the alley at the rear of the site, while the landscaping plan will promote the residential appearance of the new apartment house.

The Board concludes that approval of the requested special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map, as is required for approval of the application under Subtitle X § 901.2. The Applicant's project will be situated on a corner lot, which can compatibly accommodate a multi-family building within the RA-1 zone's development parameters, and other multi-family buildings are already located directly to the east and across the street from the new development. The Applicant's project is consistent with the purposes of the RA-1 zone to permit flexibility of design by permitting all types of urban residential development that conform to the height, density, and area requirements established for the zone district. Approval of the requested special exception is consistent with the intent of the Residential Apartment (RA) zones to permit urban residential development in moderate- or high-density residential areas suitable for multiple dwelling unit development and supporting uses. The planned development will be in keeping with the intent of the RA zones to provide for the orderly development and use of land and structures in areas characterized by predominantly moderate- to high-density residential uses, permit flexibility by allowing all types of residential development, promote stable residential areas while permitting a variety of types of urban residential neighborhoods, promote a walkable living environment, and encourage compatibility between the location of new buildings or construction and the existing neighborhood.

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The Board is required to give “great weight” to the recommendation of the Office of Planning. (D.C. Official Code § 6-623.04 (2012 Repl.)) For the reasons discussed above, the Board agrees with OP’s recommendation that the application should be approved in this case.

The Board is also required to give “great weight” to the issues and concerns raised by the affected ANC. (Section 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)(3)(A) (2012 Repl.)).) In this case, ANC 5C submitted a report and testified in opposition to the application. The Board has given great weight to the issues and concerns stated by ANC 5C but, for the reasons discussed above, did not find its lack of support for the application persuasive.

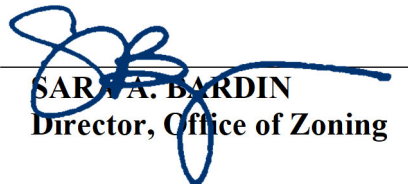
Based on the findings of fact and conclusion of law, the Board concludes that the Applicant has satisfied the burden of proof with respect to the request for a special exception under the new residential development provisions of Subtitle U § 421.1 to allow a new 16-unit apartment house in the RA-1 zone at 1001-1003 Bryant Street, N.E. (Square 3869, Lots 25 and 26). Accordingly, it is **ORDERED** that the application is **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS³ AT EXHIBIT 35A – REVISED ARCHITECTURAL PLANS.**

VOTE (Sept. 16, 2020): **4-0-1** (Frederick L. Hill, Lorna L. John, Chrishaun S. Smith, and Robert E. Miller voting to **APPROVE**; 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: October 29, 2020

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.

³ In granting the certified relief, the Board made no finding that the relief is either necessary or sufficient. 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 application for which additional or different zoning relief is needed.

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, 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.