

[DRAFT]

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Board of Zoning Adjustment



**Application No. 20243 of 532 Taylor LLC**, pursuant to 11 DCMR Subtitle X, Chapters 9, for a special exception under the RF-use requirements of Subtitle U § 320.2, to permit the conversion of a flat into a three-unit apartment house in the RF-1 Zone at premises 532 Taylor Street N.W. (Square 3231, Lot 86).

**HEARING DATE:** July 8, 2020  
**DECISION DATE:** July 15, 2020

**DECISION AND ORDER**

This self-certified application (the “**Application**”) was submitted on January 20, 2020 by 532 Taylor LLC, (the “**Applicant**”) the owner of the property located at 532 Taylor Street, NW, (the “**Subject Property**”) that is the subject of the Application. The Applicant requests special exception approval pursuant to 11-U DCMR § 320.2 of the Zoning Regulations to convert a flat into a three-unit residential building. Following a public hearing, the Board voted to approve the Application.

**PRELIMINARY MATTERS**

Notice of Application and Notice of Public Hearing. By memoranda dated February 19, 2020, the Office of Zoning sent notice of the Application to the Office of Planning (“OP”); the District Department of Transportation (“DDOT”); the Councilmember for Ward 4; Advisory Neighborhood Commission (“ANC”) 4C, the ANC for the area within which the Subject Property is located; and the single-member district ANC 4C-08. Pursuant to 11-Y DCMR § 402.1, on February 19, 2020, the Office of Zoning mailed notice of the hearings to the Applicant, ANC 4C and the owners of all property within 200 feet of the Subject Property. The original hearing date of April 8, 2020 was rescheduled due to COVID-19. The Office of Zoning issued a Notice of Virtual Public Hearing on June 25, 2020 for the hearing scheduled on July 8, 2020. Notice was published in the *D.C. Register* on July 3, 2020 (67 DCR 28).

Party Status. The Applicant and ANC 4C were automatically parties in this proceeding. There were no additional requests for party status.

Applicant’s Case. The Applicant provided evidence and testimony to show that the Application satisfied all requirements for approval of the requested zoning relief.

OP Report. The Office of Planning (“OP”) issued a report on March 27, 2020 (Ex. 35) recommending approval of the requested relief.

DDOT Report. By memoranda March 27, 2020, DDOT indicated it had no objection to the approval of the Application, noting that the proposal will have no adverse impacts on travel conditions of the District’s transportation network. (Ex. 36).

ANC Report. The ANC submitted a resolution to oppose the project (Ex. 43). In the report, the ANC stated it opposed the project because the Applicant did not agree to pay a \$15,000 donation to the Housing Production Trust Fund (“HPTF”).

Persons in Opposition. There were no persons in opposition.

Persons in Support. Two letters in support were submitted to the record. One from Sina Mansouri who owns the property located at 530 Taylor Street, NW and one from Rita Savoy who owns the property located at 534 Taylor Street, NW (Ex. 27-28).

## **FINDINGS OF FACT**

1. The Subject Property is located 532 Taylor Street N.W. (Square 3231, Lot 86).
2. The Subject Property is improved with a row building housing a flat.
3. The Subject Property has a lot area of 2,708 square feet, and a lot width of nineteen feet (19 ft.).
4. Abutting the Subject Property to the west is 534 Taylor Street, NW, which is currently improved with a row building.
5. Abutting the Subject Property to the east is 530 Taylor Street, NW which is improved with a row building.
6. Abutting the Subject Property to the north and south are Taylor Street, NW and a public alley, respectively.
7. The Subject Property is located in the RF-1 zone district.
8. The Applicant is proposing to convert the existing residential building (the “Building”) from a flat (2-units) to a three-unit apartment house.
9. Accordingly, the Applicant requested special exception relief pursuant to 11-U DCMR § 320.2.

10. In advance of the hearing on July 8, 2020, the Applicant provided updated plans and a plat showing the proposed project and conversion. (Ex. 31-32).
11. The footprint and envelope of the structure will not be altered by the proposed conversion and the Applicant is only proposing to reconfigure the interior layout to accommodate the third principal dwelling unit. (Ex. 7)
12. The building is currently thirty-four feet and nine inches (34 ft. 9 in.) in height.
13. The Applicant is not required to set-aside units for Inclusionary Zoning, as the Applicant will increase the number of units from two (2) units to three (3) units. The Inclusionary Zoning set-aside requirement of U § 320.2(b) applies to residential conversions proposing four or more units.
14. There is an existing residential building existing on the lot prior to May 12, 1958.
15. At 2,708 square feet, the lot area of the Subject Property exceeds the minimum lot area requirement of 2,700 square feet (i.e. 900 square feet per dwelling unit) as required pursuant to 11-U DCMR § 320.2(d).
16. The Applicant is not proposing any addition as part of the conversion.
17. No adjacent property has a solar system installed on its roof.
18. No chimneys will be blocked or impeded as a result of the conversion.
19. There is no proposed addition associated with the conversion, accordingly no rooftop architectural elements original to the building will be altered or removed.
20. As there is no proposed addition associated with the conversion, the light and air available to neighboring properties shall not be unduly affected, the privacy and use of enjoyment of neighboring properties shall not be unduly compromised, and there is no addition that would substantially visually intrude upon the character, scale, and pattern of houses along the Taylor Street or the alley.
21. The Applicant provided plans, photographs, sections and elevations, as well as rendered views of the proposed conversion to sufficiently represent the relationship of the conversion to the buildings and views from Taylor Street and the adjacent alley.
22. The Applicant is not requesting any waivers.

**CONCLUSIONS OF LAW AND OPINION**

The Applicant requests special exception relief pursuant to 11-U DCMR § 320.2 of the Zoning Regulations in order to construct a third-story addition and a rear addition to the existing building, and to convert the building from one housing a principal dwelling unit to a three-unit apartment house. The Board is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2) (2008) to grant special exceptions, as provided in the Zoning Regulations. Subtitle Z, § 901.2 authorizes the grant of a special exception when, 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.

The Board's discretion in reviewing an application for a special exception is limited to a determination of whether an applicant has complied with the requirements of 11-U DCMR § 320.2, and 11-X DCMR § 901.2 of the Zoning Regulations. If an applicant meets its burden, the Board ordinarily must grant the application. *See, e.g. Stewart v. District of Columbia Board of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973); *Washington Ethical Society v. District of Columbia Bd. of Zoning Adjustment*, 421 A.2d 14, 18-19 (D.C. 1980); *First Baptist Church of Washington v. District of Columbia Bd. of Zoning Adjustment*, 432 A.2d 695, 698 (D.C. 1981); *Gladden v. District of Columbia Bd. of Zoning Adjustment*, 659 A.2d 249, 255 (D.C. 1995).

Pursuant to 11-U DCMR § 320.2, a conversion of a single-family dwelling to a multi-unit dwelling may be permitted as a special exception, subject to the enumerated conditions. These conditions include: (a) The maximum height of the residential building and any additions thereto shall not exceed thirty-five feet (35 ft.); (b) The fourth (4th) dwelling unit and every additional even number dwelling unit thereafter shall be subject to the inclusionary zoning set-aside requirements; (c) There must be an existing residential building on the property at the time of filing an application for a building permit; (d) There shall be a minimum of nine hundred square feet (900 sq. ft.) of land area per dwelling unit; (e) An addition shall not extend further than ten feet (10 ft.) past the furthest rear wall of any adjoining principal residential building on the adjacent property; (f) Any addition, including a roof structure or penthouse, shall not block or impede the functioning of an operative chimney or other external vent on an adjacent property required by any municipal code; (g) Any addition, including a roof structure or penthouse, shall not significantly interfere with the operation of an existing or permitted solar energy system (of at least 2kW) on an adjacent property; (h) A roof top architectural element original to the house such as cornices, porch roofs, a turret, tower, or dormers shall not be removed or significantly altered, including shifting its location, changing its shape or increasing its height, elevation, or size.; (i) Any addition shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular: (1) The light and air available to neighboring properties shall not be unduly affected; (2) the privacy of use and enjoyment of neighboring properties shall not be unduly compromised; and (3) the conversion and any associated additions, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale, and pattern of houses along the subject street or alley; (j) In demonstrating compliance with 11-U § 320.2(i) the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the conversion and any associated addition to adjacent buildings and views from public ways; (k) The Board of Zoning Adjustment may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent or nearby properties, or to maintain the

general character of a block; (l) The Board of Zoning Adjustment may modify or waive not more than three (3) of the requirements specified in Subtitle U §§ 320.2(e) through § 320.2(h) provided, that any modification or waiver granted pursuant to this section shall not be in conflict with 11-U DCMR § 320.2(i).

Based on the findings of fact, the Board concludes that the request for special exception relief, as represented by the submitted plans, testimony, and evidence, satisfies the requirements of 11-U DCMR § 320.2. The Board credits the testimony of the Applicant and the Office of Planning and finds that the proposed addition and conversion meet the enumerated conditions. As evidenced by the plans and testimony, the proposed addition will not exceed thirty-five feet (35 ft.) in height (Fact 12). The Inclusionary Zoning set-aside requirements do not apply, as the Applicant is not proposing more than three (3) units. Inclusionary Zoning applies to residential conversions proposing four (4) or more units. (Fact 13). There is an existing residential Building on the Subject Property and it has over 2,700 square feet of land area (Facts 14-15).

The light and air available to neighboring properties will not be unduly affected as there is no proposed addition associated with the conversion. (Fact 20). The privacy and enjoyment of the adjacent properties will not be compromised, as there is no addition associated with the conversion (Fact 20). The project will not intrude on the character, scale, or pattern of houses along the street frontage, as there is no addition associated with the conversion. (Fact 20).

For these same reasons, the Board finds that the proposed addition will not adversely affect the use of neighboring properties as required by 11-X DCMR § 901.2. Further, the Board finds that the addition will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps.

The Board is required to give “great weight” to the recommendation of the Office of Planning. (D.C. Official Code § 6-623.04 (2001).) In this case, as discussed above, the Board concurs with OP’s recommendation that the Application should be approved.

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) (2001).) The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” *Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978) (citation omitted).

The ANC submitted a report stating that its reason for opposing the project was because the Applicant would not donate \$15,000 to the HPTF. That issue is not within the Board’s purview and therefore cannot be afforded great weight.

Based on the case record, the testimony at the hearing, and 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 special exceptions under 11-U DCMR § 320.2, to allow for a conversion of the subject property from a flat (2-units) to a three-unit residential building. Accordingly, it is **ORDERED** that the Application is **GRANTED** subject to the plans and plat in Exhibits 31-32.

**VOTE: 3-0-2** (Carlton Hart, Lorna John and Peter May to approve.)