

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19608 of Jonathan Meyer and Phillip Lawrence, pursuant to 11 DCMR Subtitle X, Chapter 10, for variances from the minimum court requirements of Subtitle F § 202.1 and from the nonconforming structure requirements of Subtitle C § 202.2 to construct a side addition to an existing semi-detached¹ dwelling and convert it to a nine-unit apartment house in the RA-2 Zone at premises 1310 Vermont Avenue, N.W. (Square 24, Lots 86 and 59).

HEARING DATES: October 25, 2017, November 1, 2017, and December 13, 2017
DECISION DATE: January 10, 2018

DECISION AND ORDER

The owner of 1310 Vermont Avenue, N.W. (the “Property”), Jonathan Meyer, together with the owner of the adjacent property at 1314 Vermont Avenue (the “Adjacent Property”), Phillip Lawrence (collectively with Mr. Meyer, the “Applicant”), submitted a self-certified application (the “Application”) requesting area variance relief for the Property from (i) the court requirements of Subtitle F § 202.1 and (ii) the prohibition against additions to nonconforming structures that create new nonconformities of Subtitle C § 202.2 in order to allow the construction of a side addition to the existing single-household dwelling (the “Building”) on the Property as part of the redevelopment of the Building with a portion of the Adjacent Property into a nine-unit apartment house. Based on the evidence of record, including extensive prehearing submissions and testimony received at the public hearing, and for the reasons set forth below, the Board of Zoning Adjustment (the “Board”) voted to grant the Application.

The Board made no finding that the requested relief, which was self-certified pursuant to Subtitle Y § 300.6(b), 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.

PRELIMINARY MATTERS

Notice of Application and Notice of Hearing. In accordance with 11-Y DCMR § 402.1, the Office

¹ The caption has been corrected to reflect the building’s relation to the lot.

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of Zoning published the notice of the public hearing on the Application in the *D.C. Register* on September 8, 2017 (64 DCR 36) and provided notice of the Application and of the October 25, 2017 hearing date by inclusion on the Office of Zoning's online calendar of Board hearings and by a September 18, 2017 memorandum sent to the Applicant; to Advisory Neighborhood Commission ("ANC") 2F, the ANC in which the Property is located; to ANC 2F03, the Single Member District ("SMD") Commissioner in whose SMD the Property is located; to the owners of all property within 200 feet of the Property; to the Office of Planning ("OP"); to the District Department of Transportation ("DDOT"); to the Chairman and four At-Large Councilmembers of the District of Columbia; and to the Councilmember for Ward Two in which the Property is located.

Party Status. The Applicant and ANC 2F were automatically parties in this proceeding pursuant to Subtitle Y § 403.5. No request for party status was filed.

Applicant's Case. The Applicant provided evidence and testimony about the planned addition and asserted that the Application satisfied all requirements for approval of the requested zoning relief. The Applicant asserted that it had met its burden of proof to demonstrate that the area variances requested were due to the extraordinary conditions of the Property of a narrow nonconforming southern side yard with bay windows and façade protected by historic preservation restrictions, so that the strict application of the court requirements of Subtitle F § 202.1 created practical difficulties for the Applicant to reasonably use the Property. The Applicant asserted that requested area variances did not create a substantial detriment to the public good nor substantially impair the Zoning Regulations. After the initial hearing, the Applicant submitted additional plans and depictions at the request of the Board.

OP Report. By a memorandum dated October 11, 2017 (Exhibit 34), the Office of Planning recommended denial of an area variance request from the minimum court requirements of Subtitle F § 202.1 to fill in the existing non-conforming side yard. OP's report did not analyze or discuss the requested variance relief for Subtitle C § 202.2(b) that was triggered by the proposed nonconforming court. OP asserted that the Application did not meet any of the three required prongs of the variance standard. OP did not find that the existing nonconforming side yard was an exceptional circumstance resulting in a practical difficulty because the proposed enlargement of the Property would leave sufficient space to achieve the Applicant's development without requiring variance relief. OP also asserted that the proposed variance relief would substantially harm the public good by reducing the light coming through the two-foot, three-inch nonconforming southern side yard, and would substantially harm the Zoning Regulations by not allowing sufficient light and air into the proposed nonconforming court. OP reviewed the Applicant's final plans and depiction of the alternative Option B that the Board had requested but remained opposed to the Applicant's variance requests.

DDOT Report. By a memorandum dated October 13, 2017 (Exhibit 37), the District Department of Transportation stated that it had no objection to the approval of the application for the special exception.

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ANC Report. By a letter to the Board dated September 14, 2017 (Exhibit 17), ANC 2F stated that at a regularly scheduled meeting, which was noticed and attended by a quorum of eight Commissioners, the Commission unanimously voted to support the Application for the variances from the minimum court requirements of Subtitle F § 202.1 and from the nonconforming structure requirements of Subtitle C § 202.2. The ANC found that the proposed infill of the existing side court was minimal and unobjectionable.

Persons in support. The Board received a letter dated December 12, 2017 (Exhibit 54) from three persons residing at 1316 Vermont Avenue, N.W. stating that they were “not in opposition” to the Application based on their meeting with the Applicant and consultation of the plans for the proposed addition and had no objection to the requested variances.

Persons in opposition. The Board received letters from and heard testimony from three persons in opposition to the Application. One neighbor submitted a letter questioning how much parking would be provided. (Exhibit 31.) Another neighbor, Mr. Robinson, who resides at 1332 Vermont Avenue, N.W., challenged the sufficiency of the public notice provided and of the materials submitted to the record in support of the Application. (Exhibits 40, 43, 44, 47, 51, 52, and 53.) A representative of the adjacent neighbor to the south at 1308 Vermont Avenue, N.W., the Mount Olivet Evangelical Lutheran Church (the “Church”), testified as to the church’s concerns of potential adverse impacts of the planned construction to the church’s property.

FINDINGS OF FACT

Notice of Hearing

1. The Board administratively rescheduled the hearing from the publicly noticed October 25, 2017 date to November 1, 2017 in order to ensure compliance with the 40-day requirement of Subtitle Y § 402. This administrative rescheduling, due to the delayed publication of the notice, applied to all of the cases on the Board’s schedule for October 25, 2017. The Board provided notice of this administrative rescheduling by a letter dated October 16, 2017 (Exhibit 38) and announced it at the October 25, 2017 meeting.
2. The Applicant submitted an affidavit of posting of public notice on the Property executed on October 24, 2017 and submitted to the record on October 30, 2017. (Exhibit 41.) This affidavit included photos of the posted sign.
3. The Applicant submitted additional photos of the posting on the Property showing that the revised hearing date of November 1, 2017 was included on the posting. (Exhibit 42.)

The Subject Property and Adjacent Property

4. The Property is located on the northern side of Vermont Avenue, N.W. approximately mid-block between N Street, N.W. and Logan Circle (Square 242, Lot 59), with an address of 1310 Vermont Avenue, N.W. The Property is in the RA-2 Zone.

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5. The Property is almost rectangular, approximately 46 feet wide on Vermont Avenue, N.W. and approximately 120 feet deep, with a lot area of approximately 2,760 square feet.
6. The Property is improved with the three-story semi-detached Building, with a principal dwelling unit.
7. The Building is separated from the Property's southern lot line by an existing southern side yard.
8. The Church owns property that abuts the Property along the Property's southern side lot line, with an address of 1308 Vermont Avenue, N.W. (Square 242, Lot 60) ("Church's Property").
9. The Adjacent Property abuts the Property along the Property's northern side lot line, with an address of 1314 Vermont Avenue, N.W. (Square 242, Lot 86).
10. The Adjacent Property is almost rectangular, approximately 23 feet wide on Vermont Avenue, N.W. and approximately 127 feet deep, with a lot area of approximately 5,845 square feet.
11. The Adjacent Property is improved with a three-story building abutting its northern side lot line, with a 20-foot side yard that is open to the sky and abuts the Property and Building.

The Applicant's Project

12. The Applicant proposes to subdivide the Property and Adjacent Property, which are both owned by the Applicant, to transfer most of the Adjacent Property's open southern side yard of approximately 1,400 square feet to the Property to increase the Property's lot area to 4,158 square feet in order to enable the conversion of the Building into a nine-unit apartment house with an addition filling in the currently open south side yard of the Adjacent Property.
13. The Applicant's proposed conversion of the Building to a nine-unit apartment house would make the existing southern side yard nonconforming as it is less than the four feet required by Subtitle F § 306.2(b), unless this side yard is eliminated.
14. As part of that redevelopment of the Building, the Applicant proposes to construct a side addition to the Building that would fill in the existing southern side yard and thereby eliminate the requirement for a side yard by transforming the existing nonconforming side yard into an open court by closing off the rear side.

Zoning Relief Needed

15. This two-foot, three-inch wide court would not comply with Subtitle F § 202.1, which establishes a minimum court width proportional to building height for buildings with more

than three residential units that provide a court. No court is required in the RA-2 Zone, but if provided must meet this requirement. In addition, because the Building is a nonconforming structure due to the narrow southern side yard, the Applicant also requests variance relief from the prohibition of Subtitle C § 202.2(b) of adding to a nonconforming building in a manner that would create a new nonconformity, here being the court that would replace the existing nonconforming side yard.

16. Both of the variance requests qualify as area variances under Subtitle X §§ 1001.3(a) (for the court requirements of Subtitle F § 202.1) and 1001.3(e) (for the expansion of a nonconforming structure that creates a new nonconformity).

Exceptional Circumstances

17. The RA-2 Zone requires that a semi-detached single-household dwelling provide an eight-foot side yard (Subtitle F § 306.1), rendering the Building's two-foot, three-inch southern side yard nonconforming under its current use.
18. The RA-2 Zone does not require any side yard for a building with multiple dwelling units, but if one is provided, that side yard must be at least four feet (Subtitle F § 306.2(b)).
19. The single side yard is therefore nonconforming in width.
20. The side yard is exceptionally narrow with a width of two feet, three inches.
21. Two bay windows each project one foot, nine inches into the side yard.
22. Most of the buildings on this block of Vermont Avenue, N.W. are attached buildings, and the few semi-detached buildings have significantly larger side yards than the Building's nonconforming southern side yard.
23. The Property and Adjacent Property are contributing buildings in both the Logan Circle and Fourteenth Street D.C. Historic Districts, which are therefore subject to the provisions of the Historic Landmark and Historic District Protection Act of 1978 (D.C. Law 2-144, as amended, D.C. Official Code § 6-1101, *et seq.*) ("the Act"). Consequently, the Building cannot be altered unless the Mayor or her agent finds that the issuance of an alteration permit is necessary in the public interest, or that failure to issue a permit will result in unreasonable economic hardship to the owner. (D.C. Official Code § 6-1104(f).)
24. The Act defines "necessary in the public interest" to mean consistent with the purposes of the Act or necessary to allow the construction of a project of special merit. (D.C. Official Code § 6-1108 (b).) The Applicant is not claiming economic hardship or that this is a project of special merit. Therefore, the Applicant must demonstrate that the proposed alteration is not inconsistent with the applicable purposes of the Act.

25. The Historic Preservation Review Board (“HPRB”) provides advice to the Mayor’s Agent as to whether the standards of the Act have been met. An affirmative recommendation by the HPRB can allow for a building permit to be cleared through a delegated action. The HPRB receives recommendations from the staff of the Historic Preservation Office (“HPO”).
26. The Applicant originally proposed to fill in the nonconforming side yard, which could be permitted as a special exception.
27. The Applicant stated that HPO opposed the Applicant’s informal requests to completely fill in the nonconforming southern side yard of the Property because that would change the historic façade and remove the two bay windows located in the side yard, which HPO deemed incompatible with applicable historic preservation laws and regulations. The Applicant stated that HPO indicated no objections to alternative proposals for the side addition provided that the two bay windows on the south side of the Building were retained. (Exhibit 33 and testimony at the November 1 and December 13 hearings - Hearing Transcript (“Tr.”) of November 1, 2017, pp. 30-31; Tr. of December 13, 2017, p. 9.)
28. The Applicant stated that it considered the alternative of narrowing the side addition to extend the existing nonconforming side yard but determined that this alternative would be burdensome by limiting the efficiency of the layout of the side addition and would still require variance and special exception relief. (Exhibit 33.)

Practical Difficulty

29. If the existing side yard been of a conforming width of eight feet required for a semi-detached dwelling, the proposed southern addition extending two feet, three inches into the side yard would not have created a court even with the bay windows. Instead, the reduced side yard of five feet, nine inches would have complied with the minimum four-foot side yard required for a multiple dwelling.
30. Had HPO not rejected the Applicant’s original plan to fill in the nonconforming side yard, the Applicant could have accomplished its plans without the creation of a nonconforming court.
31. Following the initial hearing, the Applicant submitted plans illustrating the alternative of locating the addition off the rear of the Building instead of filling in the nonconforming side yard. (Exhibits 49, 49A, and 49B.) This “Option B” would not affect the existing nonconforming southern side yard and so would not require relief. However, the Applicant stated that Option B would (i) cast significant shadows to both neighboring properties, as illustrated in Exhibit 49B, (ii) prevent the Applicant’s ability to locate parking (not required by zoning) in the rear of the Property, and (iii) diminish the efficacy of the layout.

Zone Plan

32. The purpose and intent of the RA-2 Zone is to provide for areas developed with moderate-density residential uses.
33. The Building with the proposed addition would meet all area requirements for RA-2, including those governing bulk.

Public Good

34. The minimal extent to which the side addition would fill in the existing southern nonconforming side yard would have no impact on the Church Property.
35. Following the second hearing, the Applicant submitted a draft Construction Management Agreement to be executed with the Church, its adjacent neighbor to the south.

CONCLUSIONS OF LAW

Notice Issue

As a preliminary matter, the Board notes concerns regarding the adequacy of public notice raised by Mr. Robinson in his filings to the record. (Exhibits 40, 43, 47, and 51.) The Board administratively rescheduled the original October 25, 2017 hearing date for November 1, 2017 upon learning that the delayed publication of the public notice required the postponement of all cases scheduled for the October 25, 2017 hearing date to comply with the 40-day notice period of Subtitle Y § 402. The Board provided notice of the rescheduled hearing (Exhibit 38) and at the October 25, 2017 public hearing announced the postponement. At the November 1, 2017 public hearing, the Board determined that this administrative rescheduling complied with the public notice requirements and that the hearing should proceed. The Board therefore concludes that under the authority of Subtitle Y § 402.11, the attendance of Mr. Robinson and other neighbors at the hearing, and the other means of notice provided, indicated that the intent and purpose of the public notice requirements had been met notwithstanding any failure or defect in the Applicant's posting.

Merits

The Applicant seeks area variance relief from the minimum court requirements of Subtitle F § 202.1 and from Subtitle C § 202.2's prohibition on enlarging an existing nonconforming structure in a manner that creates a new nonconformity in order to construct a side addition to an existing one-family dwelling and convert it to a nine-unit apartment house in the RA-2 Zone at premises 1310 Vermont Avenue, N.W. (Square 242, Lots 59 and 86).

The Board is authorized to grant variances from the strict application of the Zoning Regulations where "by reason of exceptional narrowness, shallowness, or shape of a specific piece of property ... or by reason of exceptional topographical conditions or other extraordinary or exceptional

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situation or condition of a specific piece of property,” the strict application of any zoning regulation “would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property....” (D.C. Official Code 6-641.07(g)(3) (2012 Repl.); 11-X DCMR § 1002.)

The District of Columbia Court of Appeals has held that “an exceptional or extraordinary situation or condition” may encompass the buildings on a property, not merely the land itself, and may arise due to a “confluence of factors.” See *Clerics of St. Viator v. District of Columbia Bd. of Zoning Adjustment*, 320 A.2d 291 (D.C. 1974); *Gilmartin v. District of Columbia Bd. Of Zoning Adjustment*, 579 A.2d 1164, 1168 (D.C. 1990).

A showing of “practical difficulties” must be made for an area variance, while the more difficult showing of “undue hardship” must be made for a use variance. *Palmer v. Board of Zoning Adjustment*, 287 A.2d 535 (D.C. 1972).

An area variance is defined by Subtitle X § 1001.2 as “a request to deviate from an area requirement applicable to the zone district in which the property is located,” with Subtitle X § 1001.3 providing examples. The Applicant’s request for a variance from the court requirements of Subtitle F § 202.1 falls into the area variance category of Subtitle X § 1001.3(a) as relief from “requirements that affect the size, location, and placement of buildings”, and the request for a variance from Subtitle C § 202 falls into the area variance category of Subtitle X § 1001.3(e) as relief from “the prohibition against certain enlargements and additions to nonconforming structures as stated at Subtitle C § 202.”

The Applicant is therefore required to show that the strict application of the zoning regulations would result in “practical difficulties.” *French v. District of Columbia Bd. of Zoning Adjustment*, 658 A.2d 1023, 1035 (D.C. 1995), quoting *Roumel v. District of Columbia Bd. of Zoning Adjustment*, 417 A.2d 405, 408 (D.C. 1980). A showing of practical difficulty requires “[t]he applicant [to] demonstrate that ... compliance with the area restriction would be unnecessarily burdensome.” *Metropole Condominium Ass’n v. District of Columbia Bd. of Zoning Adjustment*, 141 A.3d 1079, 1084 (D.C. 2016), quoting *Fleishman v. District of Columbia Bd. of Zoning Adjustment*, 27 A.3d 554, 561-62 (D.C. 2011).

Lastly, the Applicant must demonstrate that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. (11-X DCMR § 1002.)

Based on the above findings of fact, the Board concludes that the Applicant has satisfied the burden of proof and that the application should be granted.

Exceptional circumstance

The Board finds that the existing nonconforming southern side yard, just two feet, three inches wide, which is atypical of the immediate neighborhood, in combination with the presence of two

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bay windows in the nonconforming side yard subject to historic preservation restrictions creates an exceptional circumstance. As noted in Findings of Fact 29 and 30, if the side yard had been of a conforming width of eight feet as required for the existing semi-detached dwelling, the proposed two-foot, three-inch side yard addition would not have created a court. Instead, the resulting narrower side yard of five feet, nine inches would have complied with the minimum four-foot side yard required for a multiple dwelling. Alternatively, had the HPO not rejected the Applicant's original plan to fill in the nonconforming side yard in order to preserve the two historic bay windows, the Applicant could have accomplished its plans without the creation of a nonconforming court.

The Board recognizes that the Building's status as a contributing structure in the D.C. Historic District, which therefore restricts the Applicant's ability to change the bay windows in the nonconforming side yard, is not sufficient on its own to meet the exceptional condition prong of the variance standard. *Dupont Circle Citizens Ass'n v. D.C. Bd. of Zoning Adjustment*, 182 A.3d 138, 142 (2018). Instead, the Board determines that the bay windows that are subject to historic preservation restrictions, together with the extremely narrow nonconforming side yard, combine to create an extraordinary circumstance required for variance relief. *Gilmartin v. D.C. Bd. of Zoning Adjustment*, 579 A.2d 1164, 1168 (1990) (confluence of carriage house and easement in rear yard create a single exceptional circumstance).

Practical Difficulty

The Board determined that interaction of the nonconforming side yard that could not be filled in due to the bay windows' protection under historic preservation regulation with the strict application of the Zoning Regulations would create exceptional practical difficulties for the Applicant by preventing the Applicant from enlarging the Building in any way that impinges upon the nonconforming side yard and thus limiting the efficiency of room layout of an addition.

There is no viable matter of right alternative. As noted in Finding of Fact No. 31, the Applicant submitted plans illustrating the alternative of locating the addition off the rear of the Building instead of filling in the nonconforming side yard. (Exhibits 49, 49A, and 49B.) This "Option B" would not affect the existing nonconforming southern side yard and so would not require relief. However, the Applicant stated that Option B would (i) cast significant shadows to both neighboring properties, as illustrated in Exhibit 49B, (ii) prevent the Applicant's ability to locate parking (not required by zoning) in the rear of the Property, and (iii) diminish the efficacy of the layout.

The Public Good and the Zone Plan

The Board concludes that relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

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The Board finds the space was already substandard and so only minimal light and air would be lost by closing in the rear portion of the nonconforming side yard. Although OP asserted that the proposed in-fill of the narrow side yard would result in a loss of light and air, the adjacent neighbor to the south, the Church, did not object to the grant of the variance on this ground. Further, a new development on the site could be constructed without side yards and therefore what little light and air results from the existing side yard was always at risk.

The Church expressed concerns over the potential adverse impacts of the construction of the project on the Church Property, but these impacts would be the same as for a new development on the Property without a southern side yard. Since the impacts of construction do not flow from the relief being granted, those impacts are therefore not relevant to this Application. In any event, the Church appears to have had its concerns addressed by the Applicant with the construction management agreement submitted into the record by the Applicant.

As to the integrity of the Zone Plan, OP concluded that this prong was not met because the Zoning Regulations are intended to control building bulk in relation to adjacent lots, and minimum open court widths are intended to provide for light and air. Although the subject property is improved with a narrow side yard that the Zoning Regulations would permit the applicant to eliminate and fill in (but for the restrictions of the HPO), OP contended that the creation of a narrow dead-ended space does not support the development standards by controlling the location of building bulk in relation to adjacent lots.

However, the Zoning Act provides that every area requirement is eligible for a variance if the three prongs are met. Therefore, the integrity of the Zoning Regulations is only offended when the extent of the variance relief exceeds what the Zoning Act would reasonably contemplate. Here the court relief is being granted solely to the extent needed to create a viable project because the existing side yard is substandard and the Applicant is unable to fill in the nonconforming side yard due to the restrictions of the HPO.

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 disagrees with OP’s recommendation that the Board deny the Application. The Board notes that the OP report did not address the effect of the historic preservation restrictions on the bay windows and therefore its analysis as to the first two prongs was incomplete. For the reasons stated above, the Board also finds OP’s concerns over the loss of light and the impairment of the integrity of the zone plan to be unpersuasive.

The Board is required to give “great weight” to the issues and concerns raised by the affected ANC, ANC 2F in its written report. (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.)) ANC 2F’s report supported the Application and specifically stated its belief that the proposed infill of the rear portion of the existing nonconforming side yard, creating the nonconforming court, is minimal and unobjectionable. (Exhibit 17).

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Having stated no issues or concerns, there is nothing in the ANC's report to which the Board can give great weight.

DECISION

Based on these findings of facts and conclusions of law, the Board concludes that the Applicant has satisfied the burden of proof with respect to the request for area variance relief from the court requirements of Subtitle F § 202.1 and the limitation on additions to nonconforming structures that create nonconformities of Subtitle C § 202.2 pursuant to Subtitle X, Chapter 10 to allow the construction at premises 1310 Vermont Avenue, N.W. (Square 24, Lots 86 and 59) in the RA-2 Zone of a side addition to a principal dwelling and to convert it to a nine-unit apartment house. Accordingly, it is **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 49A – FINAL PLANS.**

VOTE: 4-0-1 (Frederick L. Hill, Peter G. May, Carlton E. Hart, and Lesylleé M. White 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: November 7, 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.

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

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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.