

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19622 of Mark Rivetti, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle E § 5201, from the lot occupancy requirements of Subtitle E § 304.1, and from the rear yard requirements of Subtitle E § 306.1, to add a third floor and construct a four-story rear addition to an existing one-family dwelling in the RF-1 Zone at premises 1121 Abbey Place N.E. (Square 773, Lot 184).

HEARING DATES: December 6, 2017 and January 10, 2018¹
DECISION DATE: January 10, 2018

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 5.) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") 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.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 6C and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6C, which is automatically a party to this application. ANC 6C submitted a report indicating that at a regularly scheduled, properly noticed public meeting on December 14, 2017, with a quorum present, the ANC voted 5-0 to support the application, as depicted in Exhibits 44 and 45 of the record. In its written report, the ANC raised concerns about the visibility of the proposed roof deck railings and indicated that their support is "conditional on these railings being constructed of less visible materials such as glass or metal cable." (Exhibit 51.)

¹ The public hearing was originally scheduled for December 6, 2017 and postponed until January 10, 2018 at the request of the Applicant. (Exhibits 33 and 36.)

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At the public hearing on January 10, 2018, Commissioner Mark Eckenwiler, who was authorized to represent the ANC in the written report submitted to the record, testified in support of the application. Commissioner Eckenwiler indicated the ANC remains supportive of the Updated Architectural Plans and Sightline Study in Exhibits 46 and 47, which were submitted to the record after the ANC's meeting and vote. Commissioner Eckenwiler also spoke to the ANC's continued request that the roof deck be constructed with less visually intrusive materials, such as glass panels or metal cable. The Applicant testified that he is in agreement with the materials requested by the ANC. The Board finds that the Applicant's agreement on the record to incorporate the materials noted by the ANC in the roof deck design addresses the ANC's concern regarding potential visual impacts of the addition.

The Office of Planning ("OP") submitted a timely report recommending approval of the application. (Exhibit 49.) In its written report, OP noted that additional relief may be necessary for the roof deck and associated spiral access stair, though that relief was not requested by the Applicant. At the public hearing, OP testified that there was not adequate time nor information to review the most recent revised plans submitted by the Applicant with respect to the roof deck railing setbacks. Further, because the Applicant did not request relief for the roof deck railing setbacks or for the spiral staircase, the Board defers to the Zoning Administrator to determine whether these aspects of the plans are compliant with the Zoning Regulations during his review of the building permit application.

The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the application. (Exhibit 16.)

Four neighbors submitted letters in support of the project to the record. (Exhibits 11, 12, 15, and 40.) One resident submitted a letter in opposition. (Exhibit 35.)

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for special exceptions under Subtitle E § 5201, from the lot occupancy requirements of Subtitle E § 304.1, and from the rear yard requirements of Subtitle E § 306.1, to add a third floor and construct a four-story rear addition to an existing one-family dwelling in the RF-1 Zone. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2, and Subtitle E § 5201, 304.1, and 306.1, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

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Pursuant to 11 DCMR Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 46.**²

VOTE: 4-0-1 (Frederick L. Hill, Lesylleé M. White, Carlton E. Hart, and Michael G. Turnbull, 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: January 12, 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 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

² Though it was not made a condition of the Order, the Board asked that the Applicant consider reducing the number and size of down lights on the addition. The Applicant agreed to make this revision.

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THERE TO) 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.