

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19680 of Quentin Ventures, LLC, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle E § 5201 from the rear addition requirements of Subtitle E § 205.4, to construct a rear addition and convert the existing one-family dwelling to a flat in the RF-1 Zone at premises 1948 2nd Street N.W. (Square 3088, Lot 50).

HEARING DATES: January 31, 2018 and February 21, 2018¹
DECISION DATE: February 21, 2018

DECISION AND ORDER

Quentin Ventures, LLC (the “Applicant”) filed an application with the Board of Zoning Adjustment (the “Board” or “BZA”) on November 30, 2017, for a special exception under Subtitle E § 5201 from the rear addition requirements of Subtitle E § 205.4, to construct a rear addition and convert the existing one-family dwelling to a flat in the RF-1 Zone at premises 1948 2nd Street N.W. (Square 3088, Lot 50) (the “Subject Property”). For the reasons explained below, the Board voted to approve the application.

PRELIMINARY MATTERS

Self-Certification. The zoning relief requested in this case was self-certified, pursuant to Subtitle Y § 300.6. (Exhibit 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.

Notice of Application and Notice of Hearing. By memoranda dated December 18, 2017, the Office of Zoning (“OZ”) sent notice of the filing of the application to the D.C. Office of Planning (“OP”), the D.C. Department of Transportation (“DDOT”), Advisory Neighborhood Commission (“ANC”) 1B, the ANC within which the Property is located, Single Member District 1B01 representative, ANC 5E, the adjacent ANC, and the Councilmember for Ward 1, the at-large Councilmembers and the Council Chair. (Exhibits 14-24.) A public hearing was

¹ The Board postponed the hearing on January 31, 2018 to that of February 21, 2018 at the Applicant’s request to allow time for the Applicant to present the case to the ANC.

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scheduled for January 31, 2018. Pursuant to 11-Y DCMR § 402.1(a), the Office of Zoning published notice of the hearing on the application in the D.C. Register. (64 DCR 012672.) On December 18, 2017, OZ sent notice of the public hearing to the Applicant and all owners of property within 200 feet of the Property. (Exhibits 25-26.)

Applicant's Motion to Postpone. The Applicant filed the instant application on November 30, 2017, and the public hearing was originally scheduled 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 ("ZPD Committee") prior to appearing before the ANC at its regular meeting on February 1, 2018. The Board granted the motion and the public hearing was rescheduled to February 21, 2018.

Request for Party Status. There were no requests for party status.

OP Report. In its memoranda dated February 9, 2018, the Office of Planning recommended approval of the requested relief. The OP report states that the applicable criteria for special exception relief pursuant to Subtitle E §§ 5201 and 205.4 was met by the application, noting that "[t]he proposed addition should not unduly impact the light and air of the neighboring properties. The proposed addition's size and design would be almost identical to the adjacent house to the south's rear addition. Therefore, it should not have an undue impact on that property's light and air. The adjacent neighbor to the north's lighting may be impacted but this impact should not be undue." (Exhibit 40.) Further, at the public hearing on February 21, 2018, OP testified 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. (Tr., 65-70.)

DDOT Report. By memoranda dated January 17, 2018, DDOT indicated that 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. (Exhibit 33.)

ANC Report. ANC 1B, the ANC in which the Subject Property is sited and which is an automatic party to this proceeding, submitted a report regarding the application. The ANC report, dated February 6, 2018, indicated that at a duly noticed and scheduled public meeting on February 1, 2017, at which a quorum was present, the ANC voted 10-0-1 to recommend denial, but stated no specific issues or concerns it had with the application. (Exhibit 39.)

ANC 5E is the abutting ANC and because the property is on the boundary with the abutting ANC, ANC 5E was served and is also an automatic party, pursuant to Subtitle Y § 403.5. ANC 5E neither submitted a report nor participated in the case.

Persons in Support/Opposition. The Board received two letters in support of the application from the two neighbors to the north, one from Gwendolyn Ford who owns 1950 2nd Street, N.W., the property immediately to the north of the Subject Property, and the other from Martin Hardy

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who resides at 1952 2nd Street, N.W., two houses away from the Subject Property. In her letter, Ms. Ford, the owner of 1950 2nd Street, N.W., indicated that she and the Applicant had conversed about his plans to extend the rear of his property at 1948 2nd Street, N.W. and that she supported his plans to “maximize the usable space of his property.” Ms. Ford added that she considered “Larry’s plans to add off-street parking to be a helpful benefit for the neighborhood.” (Exhibit 37.) In his letter of support, Mr. Hardy noted that “[t]he proposed addition is similar to a number of already existing rear additions in the same block, and is consistent with the zoning regulations on Lot Occupancy.” (Exhibit 36.) Mr. Hardy also testified in support of the application at the hearing. (Transcript of February 21, 2018 (“Tr.”), p. 88-90.)

Testimony was given at the public hearing by Mr. Reginald Duckett, who resides at 1940 2nd Street, N.W. Mr. Duckett initially testified that he would oppose an addition going further back than the neighboring residence at 1946 2nd Street, N.W. However, after the Applicant clarified that the addition would only extend as far as his current home at 1946 2nd Street, N.W., Mr. Duckett testified that he was supportive of the application. (Tr., p. 85-88.)

An email in opposition to the application from Cheryl L. Robinson-Haili, who resides at 1960 2nd Street, N.W., was submitted to the record. (Exhibit 34.)

FINDINGS OF FACT

The Property and the Surrounding Neighborhood

1. The property is located at premises 1948 2nd Street, N.W. (Square 3088, Lot 50) (the “Subject Property”) in the LeDroit Park neighborhood². (Exhibit 9.)
2. The Subject Property is in the RF-1 zone. The surrounding neighborhood is predominantly one-family row dwellings. (Exhibit 9.)
3. The 1900-block on the west side of 2nd Street, N.W. is characterized by exceptionally long and narrow lots, originally improved by row dwellings only 30 feet deep.
4. The Subject Property is currently improved with a two-story single family row dwelling erected in 1914 and has 31% lot occupancy. (Exhibit 9.)
5. The existing dwelling on the Subject Property is 23.8 feet in height and sited on a narrow lot 17.25 feet wide and 144.50 feet deep, containing a land area of approximately 2,494 square feet. (Exhibit 9.)
6. The Subject Property abuts a 15-foot public alley, leading south to an exit to 2nd Street, N.W. and north to an exit on 3rd Street, N.W. (Exhibit 9.)

² The Subject Property is in an Historic District and the project will be subject to Historic Preservation Review Board review. (Exhibit 40.)

Project Description

7. The Applicant intends to convert the one-family dwelling at the Subject Property to a two-unit flat by adding a two-story rear addition to the existing building. (Exhibit 9; Tr., p. 52-54.)
8. With the proposed addition, the resulting lot occupancy for the Subject Property would be 58.2% and the rear yard setback would be 42 feet.
9. The proposed addition will extend 18 feet beyond the rear wall of the existing structure on the Subject Property.
10. The addition will be flush with the rear wall of the adjacent structure to the south and will extend 23 feet beyond the rear wall of the adjacent property to the north, 1950 2nd Street, N.W. (Exhibit 9; Tr., p. 52-54.)
11. The proposed addition would be built on the common party wall and there would not be any windows in the portion of the addition extending beyond the rear yard of the adjacent property to the north. (Exhibit 9; Tr., p. 52-54.)
12. The Applicant also proposed to construct an accessory garage at the public alley with off-street parking for one automobile. (Exhibit 9.)
13. The Applicant will make cosmetic improvements to the street façade and existing stairs, but will not alter the main architectural elements original to the dwelling. (Exhibit 9.)

Zoning Relief

14. Pursuant to Subtitle E § 205.4, “a rear wall of an attached or semi-detached building shall not be constructed to extend farther than ten feet (10 ft.) beyond the farthest rear wall of any adjoining principal residential building on any adjacent property.”
15. The proposed rear addition will extend 23 feet beyond the rear wall of the adjacent property to the north, therefore zoning relief from Subtitle E § 205.4 is required.
16. This relief is available as a special exception pursuant to Subtitle E § 205.5, as evaluated against the criteria of Subtitle E §§ 5201.3 through 5201.6. (11-E DCMR § 205.5.)
17. In the RF-1 Zone, up to two dwelling units may be located within the principal structure or one each in the principal structure and an accessory structure by right. (11-E DCMR § 302.1.) The proposed conversion of the one-family dwelling to a flat therefore does not require zoning relief.

18. The proposed accessory garage structure complies with the zoning regulations and does not require zoning relief.

Impact of the Proposal

19. 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.
20. The Applicant is also the owner of the adjacent property to the south at 1946 2nd Street, N.W. on which a nearly identical addition had been constructed prior to the adoption of the rear addition limitation in Subtitle E § 205.4. (Tr., p. 50-51; Exhibit 37.)
21. As the size and design of the proposed rear addition on the Subject Property would be almost identical to the rear addition constructed to the adjacent structure to the south, the proposed addition would not impact the light and air available to 1946 2nd Street, N.W., nor would it affect the privacy of use or enjoyment of that property.
22. The proposed addition may have an impact on the light and air available to the adjacent property to the north, but the impacts would not be undue, as the 42-foot rear yard provided would allow for adequate air flow to both adjacent neighbors.
23. There would be no windows in the portion of the rear addition extending beyond the rear yard of the adjacent property to the north, therefore the privacy of that adjacent neighbor would not be compromised.
24. The two immediate neighbors to the north at 1950 2nd Street, N.W. and 1952 2nd Street, N.W. submitted letters in support the proposed addition. (Exhibits 37 and 36.)
25. The proposed rear addition would not be visible from the street frontage on 2nd Street, N.W. The proposed cosmetic improvements to the street façade would be in keeping with the design of adjacent row dwellings.
26. The accessory garage structure and the second-floor of the rear addition would be visible from the public alley to the rear of the property, but would not visually intrude on the character of the public alley.
27. Photographic evidence shows that several of the other row dwellings on the block on which the Subject Property is located have been extended into the rear of their properties in a similar manner to what the Applicant has proposed. Of the 17 east-facing properties on the block, six properties, not including the Subject Property, have an extended footprint. (Exhibit 37.)

Report of Advisory Neighborhood Commission 1B

28. 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.
29. Patrick Nelson, the person designated by the ANC 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's report. Mr. Nelson, who is the Chair of the ZPD Committee, stated that the ZPD Committee wanted the Applicant to provide a rationale or explanation for why the addition was necessary or to modify its plans. (Tr., p. 70-83.)

CONCLUSIONS OF LAW

The Applicant requests a special exception under Subtitle E § 5201 from the rear addition requirements of Subtitle E § 205.4, to construct a rear addition and convert the existing one-family dwelling to a flat in the RF-1 Zone at premises 1948 2nd Street N.W. (Square 3088, Lot 50). The Board is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2) (2001) 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. (11-X DCMR § 901.2.)

In addition to meeting the general special exception standard, the Applicant must satisfy the "specific conditions" of Subtitle E § 5201 to be granted special exception relief. Specifically, an applicant must show that: (a) the light and air available to neighboring properties shall not be unduly affected; (b) the privacy of use and enjoyment of neighboring properties shall not be unduly compromised; and (c) the addition or accessory structure, together with the original building, 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 frontage. (Subtitle E § 5201.3.) In order to demonstrate compliance with paragraphs (a), (b) and (c), an applicant must provide graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the proposed addition or accessory structure to adjacent buildings and views from public ways. (Subtitle E § 5201.3(d).) Finally, the Board may approve lot occupancy of all new and existing structures on the lot up to a maximum of 70%. (Subtitle E § 5201.3(e).)

Based on the findings of fact, the Board concludes that the request for special exception relief satisfies the requirements of Subtitle E § 5201. The Board finds that the Applicant has provided

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sufficient plans, photographs, and elevations to meet the requirement of Subtitle E § 5201.3(d), and finds that the addition would increase the lot occupancy to 58.2%; therefore, the requirement of Subtitle E § 5201.3(e) is met. The Board will address the criteria of Subtitle E § 5201.3 (a), (b), and (c) in turn.

First, the Board finds that the Applicant has met the burden of proof by demonstrating that the light and air available to neighboring properties shall not be unduly affected. The adjacent property to the south at 1946 2nd Street, N.W., also owned by the Applicant, has a nearly identical rear addition. The proposed rear addition would extend no further than the adjacent property to the south; therefore, the Board finds that it would not impact the light and air available to 1946 2nd Street, N.W. The proposed addition may have an impact on the light and air available to the adjacent property to the north, as it would extend 23 feet beyond the rear wall of that structure; however, the impacts would not be undue. Even with the rear addition, the Subject Property will provide a 42-foot rear yard to allow for substantial amounts of light and adequate air flow to adjacent neighbors. Further, in the case record and during the hearing, the adjacent property owner to the north at 1950 2nd Street, N.W. raised no objections to the proposed rear addition related to light or air impacts.

The Board finds that the privacy of use and enjoyment of neighboring properties shall not be unduly compromised by the rear addition. The proposed addition would be built on the common party wall and there would not be any windows in the portion of the addition extending beyond the rear yard of the adjacent property to the north. Again, as the proposed addition will be substantially similar to the rear addition to the property to the south at 1946 2nd Street, N.W., there will be no impact on the privacy or use of that adjacent property, also owned by the Applicant. As there will be no windows over the rear yard of the property at 1950 2nd Street, N.W., the rear addition will not impact the privacy available to that adjacent neighbor. As with the light and air impacts, the adjacent property owner to the north at 1950 2nd Street, N.W. was supportive of the proposed addition and raised no concerns related to the use or enjoyment of her property.

Finally, the Board finds that the addition or accessory structure, together with the original building, 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 frontage. The proposed rear addition would not be visible from the street frontage on 2nd Street, N.W. Though the Applicant also proposes cosmetic improvements to the street façade, the Board finds that those improvements would be in keeping with the design of adjacent row dwellings and would not visually intrude upon the character or pattern of houses on the block. The proposed accessory garage structure and the second-floor of the proposed rear addition would be visible from the public alley to the rear of the property, but the Board finds that those elements of the proposal would not visually intrude on the character of the alley. Evidence provided by the Applicant supports the finding that various row dwellings on the block on which the Subject Property is located have similar rear additions.

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For these same reasons, the Board concludes that the request for special exception relief meets the general special exception standards in Subtitle X § 901.2. The Board specifically finds that granting special exception in this case would be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps as required by Subtitle X § 901.2(a). The proposed project would allow the Applicant to convert a one-family dwelling into a flat, which is consistent with the character of the RF-1 Zone. Further, the Board finds that the proposed addition would not adversely affect the use of neighboring properties, as required by Subtitle X § 901.2(b). As discussed in the analysis of the special exception standard of Subtitle E § 5201, the proposed addition would not have an adverse impact on light and air available to adjacent properties, privacy of use and enjoyment of adjacent properties, or the visual character of the street frontage or public alley.

The Board concludes that the Applicant has met its burden of proof for the special exception requested.

Great Weight to ANC and OP

Section 13 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)(A)) (2014 ed.) requires that the Board's written orders give "great weight" to the issues and concerns raised in the written recommendations of the affected ANC. 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 D.C. 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, as communicated in its written report.

The Board concludes that it has accorded ANC 1B's views the consideration it is due. In this case, while it is true that ANC 1B voted to oppose the application, the ANC failed to articulate any issue or concern in its report. As ANC 1B did not articulate any issue or concern in its written report, there was nothing to which to give "great weight" and the Board is not obliged to accord "great weight" to ANC 1B's recommendation and hereby declines to do so.

The Board is also required under D.C. Official Code § 6-623.04(2001) to give "great weight" to OP recommendations. For reasons stated in this Decision and Order, the Board finds OP's recommendation to approve the relief requested to be persuasive.

Based upon the record before the Board and having given great weight to the OP report, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2 and Subtitle E §§ 5201 and 205.4, 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

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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.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 8.**

VOTE: **5-0-0** (Frederick L. Hill, Carlton E. Hart, Lesylleé M. White, Lorna L. John, and Peter G. May 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: May 9, 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 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.

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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.