

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Board of Zoning Adjustment**



**Application No. 19741 of M2EDGEWOOD, LLC**, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle E § 206.2 from the upper floor addition requirements of Subtitle E § 206.1(a), to construct a one-story upper floor addition to an existing two-story, four-unit apartment house in the RF-1 Zone at premises 223 Adams Street N.E. (Square 3560, Lot 10).

**HEARING DATES:** May 2, 2018, June 6, 2018, and July 11, 2018<sup>1</sup>  
**DECISION DATE:** July 11, 2018

**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (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") 5E and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 5E, which is automatically a party to this application. The ANC submitted a report in support of the application, noting that at a duly noticed and regularly scheduled public meeting on May 15, 2018, the ANC considered the application and recommended that the Applicant's request be granted provided the proposed building be of red

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<sup>1</sup> This case was originally scheduled for a public hearing on May 2, 2018. That hearing was postponed at the Applicant's request to June 6, 2018 to allow for sufficient time for the Applicant to meet with the ANC. (Exhibit 28.) The Chair of the Board granted the unopposed request and the case was rescheduled for a hearing on June 6, 2018. (Exhibit 33.) The Office of Planning supported the request to postpone. (Exhibit 32.) At the hearing on June 6, 2018, the Board completed its hearing procedures, but continued the hearing to July 11, 2018 after requesting that the Applicant work with the Office of Planning and submit additional documents.

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brick and not use white paint.<sup>2</sup> The ANC report noted that community members had aesthetic concerns that were addressed by the Applicant agreeing to use red brick. (Exhibit 40.)

The Office of Planning (“OP”) submitted two reports, the first dated May 24, 2018 (Exhibit 35) and a supplemental report dated July 3, 2018 (Exhibit 45), in which it recommended denial of the application on the grounds that removal of the mansard roof and the proposed additions and building alterations would negatively impact the visual character of the row along Adams Street, N.E. and would provide an out of character elevation along 3<sup>rd</sup> Street, N.E., thereby harming the character of the neighborhood.

The District Department of Transportation (“DDOT”) submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 27.)

Twenty-six letters of support for the application from neighbors were submitted to the record. (Exhibits 42 and 46.)

Special Exception Relief

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 a special exception under Subtitle E § 206.2 from the upper floor addition requirements of Subtitle E § 206.1(a), to construct a one-story upper floor addition to an existing two-story, four-unit apartment house 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.

OP Report

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, OP recommended denial of the Applicant’s project on the basis that the proposed removal of the rooftop architectural element, i.e. removal of the mansard roof in favor of a flat roof design, would be out of character with the rest of the row and thus not in harmony with the general purpose and intent of the Zoning Regulations for the RF-1 Zone. (Exhibit 35.) In its supplemental report, OP continued to find that “the proposal with the removal of the mansard roof element would make the building more out of character with its row on Adams ST, N.E.” (Exhibit 45.)

In its testimony, OP noted that when it analyzed what is in character with the neighborhood in this case it was looking at Subtitle E § 206.1 “which talks about the rooftop element and the preference that the rooftop element be maintained within this zone.” (BZA Hearing Transcript of

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<sup>2</sup> The ANC report failed to report how many ANC commissioners were present or the vote on the matter.

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July 11, 2018, p. 31.) The Board is authorized by Subtitle E § 206.2 to grant relief from Subtitle E § 206.1 by special exception, subject to the conditions of Subtitle E § 5203.3. (11-Y DCMR § 206.2.) OP agreed with the Applicant that “the point of this provision was to allow for the community to provide comments on cases such as this”, when noting that the comments received from the neighborhood were “generally positive,” even though OP continued to feel “that it [the Applicant] does not make the case.” (Transcript of July 11, 2018, p. 35.)

The Board was not persuaded by OP’s recommendation in this case and was instead persuaded by the Applicant’s arguments that allowing the removal of the mansard roof in this case would not have an adverse impact on the character of the surrounding neighborhood. Specifically, the Board credits the information provided by the Applicant in Exhibit 41 and in its testimony at the hearings on June 6 and July 11, 2018, demonstrating that having a different roofline on the end or corner unit of a row versus what happens in the middle of the block was not unusual in the surrounding neighborhood. The Board cited the examples the Applicant provided in the greater neighborhood of other rectilinear corner units like the one being proposed that “bookend” the row, as well as its showing of how the proposal would be consistent with the buildings it faces along 3<sup>rd</sup> Street. In finding that this proposal would not be out of character, the Board also focused on the Applicant’s outreach to the community, the lack of objection in the community for removal of the mansard roof, and the Applicant’s agreement to take on the added expense of using red brick and make other adjustments to its design in response to the community’s concerns, thus resulting in the ANC’s support of the project. (See, BZA Hearing Transcript of July 11, 2018 at pp. 4-46.) Because the Board concurs with the Applicant’s argument that removing the mansard roof would not have a detrimental impact on the character of the neighborhood, the Board finds that granting the application would be in harmony with the general purpose and intent of the Zoning Regulations for the RF-1 Zone.

ANC Report

The Board is also required to give great weight to issues and concerns raised by the affected ANC (D.C. Official Code § 1-309.10(d).) ANC 5E submitted a report of support for the application to remove the mansard roof. The only issue or concern the ANC raised was its desire to have the project be of matching red brick instead of white paint, which the Applicant agreed to. Thus, the only issue or concern raised by the ANC was resolved by the Applicant’s agreement to use matching red brick instead of white paint. The ANC’s report, however, did not meet the requirements of Subtitle Y § 503.2(d) and (g) to state how many commissioners constitute a quorum and how many were present and the outcome of the vote on the motion to adopt the report. While the Board noted that the ANC supported the project and that the ANC’s issues were resolved, the ANC report was not entitled to great weight.

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 §§ 206.1(a) and 206.2, 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.


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 REVISED PLANS AT EXHIBITS 38.**

**VOTE:**       **4-1-0** (Carlton E. Hart, Robert E. Miller Lesylleé M. White, and Lorna L. John, to APPROVE; Frederick L. Hill, opposed.)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**  
A majority of the Board members approved the issuance of this order.

**ATTESTED BY:**

  
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**SARA A. DARDIN**  
**Director, Office of Zoning**

**FINAL DATE OF ORDER:** August 1, 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

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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.