GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment

Application No. 19761 of Lisa McGuire, 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, the rear yard requirements of Subtitle E § 306.1, and the nonconforming structure requirements of Subtitle C § 202.2(b), to permit an existing nonconforming rear deck and balcony on the lower level of an existing flat in the RF-1 Zone at premises 2825 11th Street N.W. (Square 2857, Lot 49).[1]

HEARING DATE: Applicant waived right to a public hearing
DECISION DATE: June 13, 2018 (Expedited Review Calendar)

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 10.) 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.

Pursuant to 11 DCMR Subtitle Y § 401, this application was tentatively placed on the Board's expedited review calendar for decision without hearing as a result of the applicant's waiver of its right to a hearing. (Exhibit 2.)

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") 1B, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1B, which is automatically a party to this application. The ANC submitted a report indicating that at a regularly scheduled and properly noticed meeting on June 7, 2018, at which a quorum was in attendance, ANC 1B voted 10-0-0 to support the application. (Exhibits 37 and 38.)

[1] The caption has been revised to clarify that the relief is limited to the lower level of the existing flat on the subject property. The subject property is a condominium building with two units in separate ownership. Each unit has an existing nonconforming deck in the rear of the property. This special exception request is filed on behalf of the owner of Unit No. 1 (the lower unit) for the first floor deck only. Relief has not been applied for or considered for the upper level.

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The Office of Planning ("OP") submitted a timely report in support of the application.[2] (Exhibit 32.) The District Department of Transportation ("DDOT") submitted a timely report expressing no objection to the approval of the application. (Exhibit 31.)

No objections to expedited calendar consideration were made by any person or entity entitled to do by Subtitle Y §§ 401.7 and 401.8. The matter was therefore called on the Board's expedited calendar for the date referenced above and the Board voted to grant the application.

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, the rear yard requirements of Subtitle E § 306.1, and the nonconforming structure requirements of Subtitle C § 202.2(b), to permit an existing nonconforming rear deck and balcony on an existing flat in the RF-1 Zone. No parties appeared at the public meeting 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, Subtitle E §§ 5201, 304.1 and 306.1, and Subtitle C § 202.2(b), 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.

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 EXHIBIT 29.**

VOTE: **5-0-0** (Frederick L. Hill**,** Lesylleé M. White, Carlton E. Hart, 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

[2] OP requested that the Order clearly state that the relief was only sought for and granted for the lower unit in the subject property. The Board ordered the caption to be changed accordingly.

FINAL DATE OF ORDER: June 25, 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.

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.