

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19763 of Sharon and Cheng Xu, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle E §§ 206.2 and 5203.3 from the upper floor addition requirements of Subtitle E § 206.1, to construct a third-story addition to an existing two-story, four-unit apartment house in the RF-1 Zone at premises 1210 19th Street N.E. (Square 4445, Lot 824).

HEARING DATE: June 27 and July 11, 2018¹
DECISION DATE: July 11, 2018

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 11².) 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") 5D and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 5D, which is automatically a party to this application. The ANC submitted a report indicating that at a regularly scheduled, properly noticed public meeting on July 10, 2018, at which a quorum was present, the ANC voted 4-0-1 to support the application. (Exhibit 45.)

¹ The public hearing for this application was originally scheduled for June 27, 2018 and was postponed to July 11, 2018 at the Applicant's request. (Exhibit 40.)

² An incomplete zoning self-certification form was previously submitted to the record as Exhibit 5.

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The Office of Planning (“OP”) submitted a timely report recommending denial of the relief requested. (Exhibit 43.) Specifically, OP noted that it “does not support the unnecessary removal of the rooftop architectural element because the proposed design would be inconsistent with the predominant roof form style of the block and square.” (Exhibit 43.)

The District Department of Transportation (“DDOT”) submitted a timely report indicating that it had no objection to the application. (Exhibit 31.)

The owner of 1214 19th Street, N.E. submitted a letter of support. (Exhibit 35.)

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 and 5203.3 from the upper floor addition requirements of Subtitle E § 206.1, to construct a third-story 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 found that the project would not have a significant adverse effect on the use of the adjacent property; however, OP recommended denial on the basis that the proposed removal of the rooftop architectural element would not be in harmony with the general purpose and intent of the Zoning Regulations for the RF-1 Zone. (Exhibit 43.) OP found that removal of the mansard roof in favor of a flat roof design would be inconsistent with the predominant roof form style of the block and square.

The Board was not persuaded by OP’s recommendation in this case and was instead persuaded by the Applicant’s argument that allowing the removal of the mansard roof 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 44, demonstrating that the mansard roof is not a consistent feature of dwellings on the block or in the wider area. Due to the renovation of other dwellings on the same block as the Subject Property, the Board noted that both flat roof and mansard roof designs are found on that block, which supports the argument that the mansard roof is not a predominant architectural scheme. (BZA Hearing Transcript of July 11, 2018 at pp. 236-37.) 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.

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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).) In this case ANC 5D passed a resolution in support of the application and did not state any issues or concerns in opposition to the Board’s approval of the application. (Exhibit 45.)

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 §§ 206.1, 206.2, and 5203.3, 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 PLANS AT EXHIBIT 6.**

VOTE: 4-0-1 (Carlton E. Hart, Lesylleé M. White, Lorna L. John, and Michael G. Turnbull to Approve; Frederick L. Hill abstaining.)

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. BORDIN
Director, Office of Zoning

FINAL DATE OF ORDER: July 31, 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

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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.