

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19785 of Paul Vinovich, as amended¹, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under the use requirements of Subtitle U § 301.1(g), and under Subtitle E § 5201 from the nonconforming structure requirements of Subtitle C § 202.2 and from the lot occupancy requirements of Subtitle E § 304.1, to construct a second story and roof deck addition to an existing accessory structure in the RF-1 Zone at premises 322 8th Street S.E. (Square 924, Lot 50).

HEARING DATE: July 11, 2018

DECISION DATE: July 11, 2018

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11-Y DCMR § 300.6. (Exhibits 5 (original) and 28 (revised).) 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") 6B and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6B, which is automatically a party to this application. The ANC submitted a report of support. The ANC report indicated that at a duly noticed and regularly scheduled public meeting on June 12, 2018, at which a quorum was present, the ANC voted 8-2-0 to support the project with the understanding that the Applicant and the adjacent neighbor would have a "full and robust conversation" to address unresolved privacy issues in advance of the hearing. (Exhibit 40.) The Chair of ANC 6B testified at the hearing in support of the application.

¹ The Applicant amended the original application to add a special exception from the lot occupancy requirements under Subtitle E § 304.1 and by withdrawing his request in his original application for a special exception from the use requirements under Subtitle U § 301.1(d). (Exhibits 26-31, and 35.) The caption has been altered accordingly.

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The Office of Planning (“OP”) submitted a report dated June 29, 2018, in which it recommended approval of the revised application. (Exhibit 39.)

The District Department of Transportation (“DDOT”) submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 38.)

Mr. L. Leonard Hacker, 319 9th Street, S.E., submitted a late filed application for Party Status in opposition and a request for a waiver from the time limits to submit such an application. (Exhibit 45.) Mr. Hacker lives behind the Applicant and both his and the Applicant’s garages face each other across the alley. The Board granted the waiver for the untimely filing of Mr. Hacker’s application and granted Mr. Hacker’s request for party status in opposition. At the hearing, Mr. Hacker gave testimony in opposition, citing his concerns about how the project would impact safety and ease of egress from his garage, privacy, and potential noise. (Exhibit 46.)

After the Board approved the application but before an order was issued, Mr. Hacker withdrew his opposition to the application and became a party proponent.² (Exhibit 48.) The Board Chair granted leave for this summary order to be issued, as authorized by 11-Y DCMR § 604.3. (Exhibit 49.)

The Capitol Hill Restoration Society submitted a letter in opposition to the record. (Exhibit 43.)

Two neighbors, Neaha Raol and Derek Farwaqi, testified in opposition to 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 the use requirements of Subtitle U § 301.1(g), and under Subtitle E § 5201 from the nonconforming structure requirements of Subtitle C § 202.2 and from the lot occupancy requirements of Subtitle E § 304.1, to construct a second story and roof deck addition to an existing accessory structure in the RF-1 Zone. As Mr. Hacker withdrew his opposition, 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 ANC and OP reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2, Subtitle U § 301.1(g), Subtitle E §§ 304.1 and 5201, and Subtitle C § 202.2, 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 further concludes that granting the

² Mr. Hacker’s withdrawal of opposition was based on an agreement with the Applicant to modify his plans. (Exhibit 48.) The final plans cited in this order are the ones that the Board approved; it is expected that after this order is issued, the Applicant will return to the Board for a modification to his plans based on his agreement with Mr. Hacker.

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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 35.**

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



SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: August 20, 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

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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.