GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment

Application No. 20027 of Kara Benson, as amended, pursuant to 11 DCMR Subtitle X, Chapter 10, for area variances from the height requirements of Subtitle E § 5102.1 and the alley centerline setback requirements of Subtitle E § 5106.1, to construct a two-story addition to an existing semi-detached, principal dwelling unit in the RF-3 Zone at premises 520 Groff Court N.E. (Square 779, Lot 0179).

HEARING DATE: June 5, 2019 and July 17, 2019
DECISION DATE: July 17, 2019

SUMMARY ORDER

Relief Requested. The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 27 (Revised); Exhibit 4 (Original).)[1]

Notice of the Application and Public Hearing. The Board of Zoning Adjustment ("Board" or "BZA") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

Parties. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 6C. The Board received requests for party status in opposition from eight neighbors. (Exhibits 30, 32.) In advance of the public hearing on this case and before the Board's decision on these requests, the authorized agent for the eight neighbors filed a letter withdrawing the party status requests. (Exhibit 55.)

ANC Report. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on May 8, 2019, at which a quorum was present, the ANC voted 5-0 to support the application. (Exhibit 52.) The ANC indicated that its support of the application was conditioned on the Applicant executing a construction management agreement for the protection of nearby residents. The ANC report noted that this condition had been satisfied by the Applicant.

[1] The original application included a request for special exception relief from the rear yard requirements of Subtitle E § 5104.1 and the nonconforming structure requirements of Subtitle C § 202.2, which was withdrawn. Also, the Applicant sought relief from the height requirements of Subtitle E § 5102.1 and the alley centerline setback requirements of Subtitle E § 5106.1 as area variances, but later requested that the Board consider, in the alternative, relief from these requirements as special exceptions. (Exhibit 51.) The Board determined to consider the relief for height and alley centerline setback as area variances, as shown in the self-certification form in Exhibit 27.

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OP Report. The Office of Planning ("OP") submitted two reports recommending approval of the variance relief requested and not supporting the Applicant's argument that the relief for height and alley centerline setback may be considered as a special exception. (Exhibits 48, 53.) OP also recommended that the Applicant revise its plans to provide a one-foot setback from the north alley. During the public hearing, OP testified that it would be satisfied if the Applicant were instead to provide assurances that it would not construct any bollards or other projections into public space. The Applicant noted that it agrees to not to construct any projection into public space, as this would not be permitted under the Construction Code.

DDOT Report. The District Department of Transportation submitted a report indicating that it had no objection to the application. (Exhibit 47.)

Persons in Support. The Board received one letter in support of the application. (Exhibit 26.)

Persons in Opposition. Aside from the requests for party status in opposition later withdrawn, the Board received one letter in opposition to the application. (Exhibit 39.)

Variance Relief

The Applicant seeks relief under Subtitle X § 1002.1 for area variances from the height requirements of Subtitle E § 5102.1 and the alley centerline setback requirements of Subtitle E § 5106.1, to construct a two-story addition to an existing semi-detached, principal dwelling unit in the RF-3 Zone.

Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations filed in this case, the Board concludes that the Applicant has met the burden of proof under 11 DCMR Subtitle X § 1002.1, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty, in the case of an area variance, or an undue hardship, in the case of a use variance, in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS[2] AT EXHIBIT 43B.**

[2] Self-certification: In granting the self-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.

VOTE: **5-0-0** (Frederick L. Hill, Lesylleé M. White, Lorna L. John, Carlton E. Hart, and Anthony J. Hood 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: July 22, 2019

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.