

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19235 of Canberra LLC, pursuant to 11 DCMR § 3104.1, for a special exception from the use requirements under § 336, to convert an existing two-story dwelling into a three-unit apartment house in the R-4 District at premises 753 Columbia Road, N.W. (Square 2890, Lot 99). (Applicant's name was formerly "Hobart, LLC".)

HEARING DATE: March 29, 2016¹
DECISION DATE: April 12, 2016

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 7.) In granting the certified relief, the Board of Zoning Adjustment ("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.

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") 1A and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1A, which is automatically a party to this application. The ANC submitted a report, dated March 10, 2016, indicating that at a duly noticed and scheduled public meeting on March 9, 2016, at which a quorum was in attendance, the ANC voted 10-0-0 in support of the application. (Exhibit 34.)

The Office of Planning ("OP") submitted a timely report on March 21, 2016, recommending approval of the application (Exhibit 36) and testified in support of the application at the hearing.

¹ The instant application was heard in conjunction with BZA Application No. 19236 of Hobart, LLC because the properties are adjacent to one another and are part of a three-lot development to include 753 Columbia Rd., N.W. and 755 Columbia Rd., N.W. (19236). The third lot – 751 Columbia Rd., N.W. (Lot 805) - is not part of this application.

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The D.C. Department of Transportation submitted a report expressing no objection to the application. (Exhibit 37.)

Two letters in support were submitted to the record from neighbors Warren Wills, Jr. - residing at 757 Columbia Road, N.W. (Exhibit 29), and Brian Szymanski – residing at 756 Columbia Road, N.W. (Exhibit 33). The latter letter was in support if the Board addressed concerns raised in the letter regarding the provision of adequate parking, the location of the trash and recycling bins being left out in front of the building, and limiting the height of the central bay shown in the plans.

One neighbor, Darren Jones, who resides to the south of the project at 767 Columbia Road, N.W., testified at the hearing of March 29, 2016. He expressed conditional support, provided that his concerns regarding adequate parking and trash collection were addressed. The Applicant presented additional information stating that the plan is to open the rear yards of all three lots and provide a total of six parking spaces – three standard and three compact spaces. With regard to trash collection, the Applicant indicated that it will have a private company pick up the trash from the rear yards of the properties where the trash will be located.

Mr. Jones testified that neither he, nor his neighbor, Mr. Wills (at 757 Columbia Road) had seen the shading study to address the impact of the project on their properties. The Applicant reviewed with Mr. Jones, the shadow study (Exhibit 41) which shows the impact of the entire project on the property on the west, noting that there is an empty lot to the east. After considering the Applicant's additional information, Mr. Jones indicated that his concerns were addressed.

At the conclusion of the hearing on March 29, 2016, the Board requested that the Applicant also discuss with Mr. Wills the fact that there will be a wall beside his property, show Mr. Wills the shadow studies, and have him submit an updated letter indicating that he is aware of the impact of the project on his property. The Board also requested that the Applicant submit into the record the side elevation plans.

In response to the Board's request, the Applicant filed the side elevation plans. (Exhibit 45.) Also, the adjacent neighbor, Mr. Wills, filed a supplemental letter, noting his understanding of the project and expressing continued support for the application. (Exhibit 43.)

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exception relief under § 336. The only parties to the application were the Applicant and the ANC which expressed support for the application. 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 averse 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 §§ 3104.1 and 336, that the requested relief can be granted, being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the

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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 § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.5, 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 the application is hereby **GRANTED, AND PURSUANT TO § 3125.8, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 31 - ARCHITECTURAL PLANS AND ELEVATIONS, AND EXHIBIT 45 – SIDE ELEVATION.**

VOTE: 5-0-0 (Marnique Y. Heath, Robert E. Miller, Frederick L. Hill, Anita Butani D'Souza, and Jeffrey L. Hinkle 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: April 19, 2016

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, 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 § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, 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

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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.