

Notice of: ☒ **Refusal** ☐ **Referral**

Application Number: ZP-2021-007970	Zoning District(s): CMX2	Date of Refusal: 7/17/2021
Address/Location: 822 N 40TH ST, Philadelphia, PA 19104-4802 Parcel (PWD Record)		Page Number Page 1 of 2
Applicant Name: Eugene Naydovich Fitler Development, LLC DBA: Fitler Development, LLC	Applicant Address:	

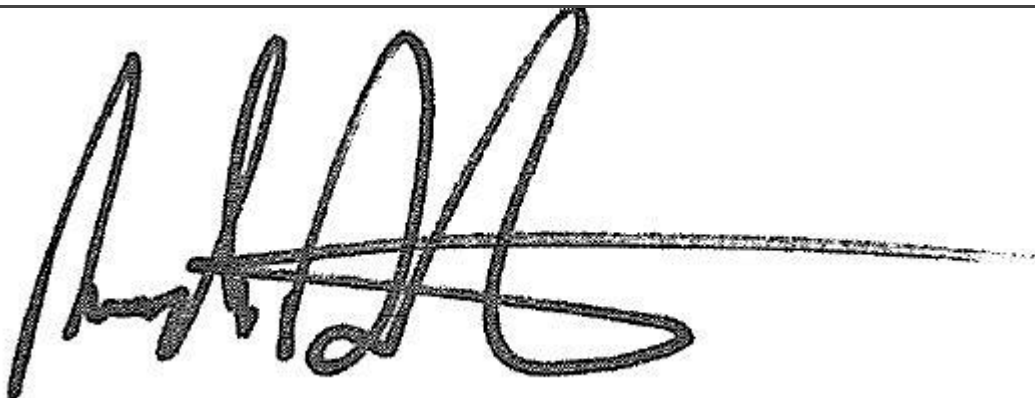
Application for:

For the erection of a three-story attached structure that includes a full basement and a private roof deck with a roof access structure.
Size and location per plans.

For the use as Multi-Family Household Living (seven units).

The permit for the above location cannot be issued because the proposal does not comply with the following provisions of the Philadelphia Zoning Code. (Codes can be accessed at www.phila.gov.)

<u>Code Section(s):</u>	<u>Code Section Title(s):</u>	<u>Reason for Refusal:</u>
14-602(4)(a)[3]	Commercial District Use Table Notes	<i>In the CMX-2 and CMX-2.5 districts, in order to promote active uses at the street level, buildings must contain a use other than residential and other than parking along one hundred percent (100%) of the ground floor frontage and within the first 30 ft. of building depth, measured from the front building line. If the property is bounded by two or more streets, only the primary frontages as designated in ? 14-701(1)(d)(.4) (Primary Frontage) shall be subject to this requirement.</i> <i>Whereas, this application proposes residential use on the entire first floor.</i>
14-602(4)(a)[2]	Commercial District Use Table Notes	<i>In the CMX-2 district, a minimum of 480 sq. ft. of lot area is required per dwelling unit, provided that whenever the calculation of permitted number of</i>



Andrew DiDonato
PLANS EXAMINER

7/17/2021
DATE SIGNED

Notice of: ☒ **Refusal** ☐ **Referral**

Application Number: ZP-2021-007970	Zoning District(s): CMX2	Date of Refusal: 7/17/2021
Address/Location: 822 N 40TH ST, Philadelphia, PA 19104-4802 Parcel (PWD Record)		Page Number Page 2 of 2
Applicant Name: Eugene Naydovich Fitler Development, LLC DBA: Fitler Development, LLC	Applicant Address:	

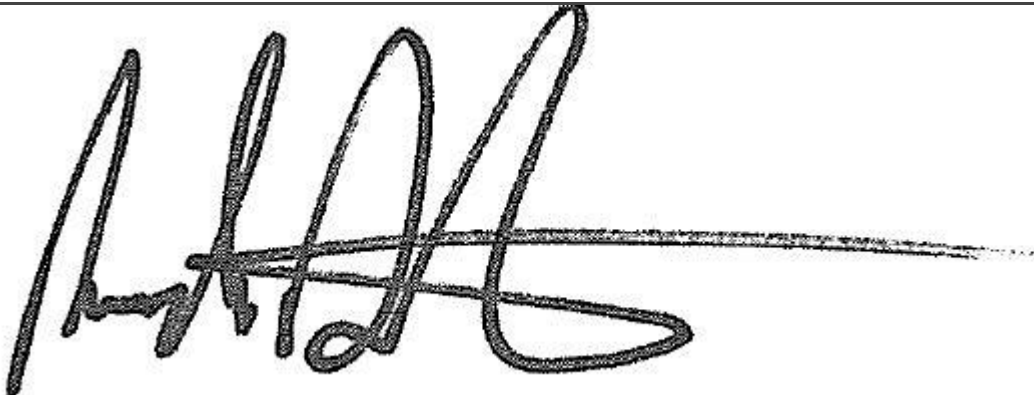
		<i>dwelling units results in a fraction of a dwelling unit, then the number of permitted dwelling units shall be rounded down to the nearest whole number. With a lot dimension of 2058 sq. ft., four dwelling units would be allowed.</i> <i>Whereas, the proposed seven dwelling units is prohibited based on the size of the lot.</i>
--	--	--

TWO (2) USE REFUSALS

Fee to File Appeal: \$300.00

Parcel Owner:

CHANDLER IRENE



Andrew DiDonato
 PLANS EXAMINER

7/17/2021
 DATE SIGNED

The figure shows an aerial photograph of an urban area with several streets labeled: "ST. JAMES ST.", "ST. LOUIS ST.", "ST. CLAY ST.", "ST. BERNARD ST.", "ST. ANNE ST.", "ST. MARY ST.", "ST. MICHAEL ST.", "ST. JOHN ST.", "ST. DAVID ST.", "ST. ABRAHAM ST.", "ST. ISAAC ST.", "ST. JACOB ST.", "ST. JOSEPH ST.", "ST. PATRICK ST.", "ST. PETER ST.", "ST. PAUL ST.", "ST. ANDREW ST.", "ST. GEORGE ST.", "ST. MARK ST.", "ST. LUCAS ST.", "ST. MATTHEW ST.", "ST. JAMES ST.", "ST. JOHN ST.", "ST. PAUL ST.", "ST. ANDREW ST.", "ST. GEORGE ST.", "ST. MARK ST.", "ST. LUCAS ST.", "ST. MATTHEW ST.". Various buildings are outlined in white, and some areas are highlighted in yellow, green, blue, and red. The map also includes a scale bar and a north arrow.

ZONING PLAN ABBREVIATIONS

—W—W—	WATER LINE
—SW—SW—	SEWER LINE
—G—G—	GAS LINE
—E—E—	ELECTRICAL LINE
- - - - -	PROPOSED BUILDING LINE
- - - - -	LOT LINE
	DIRECTION OF TRAFFIC
	CURB CUT (ADA RAMP)
	UTILITY POLE
	FIRE HYDRANT
	NORTH SIGN
	PLANTER (TREE)
	DROP INLET
	TRAFFIC SIGN
	PROPOSED BUILDINGS/ADDITIONS
	EXISTING BUILDINGS
	EXISTING NEIGHBORING BUILDINGS
	ROAD COVER
—W—W—	PROPOSED DOMESTIC WATER LINE
—W1—W1—	PROPOSED FIRE SERVICE WATER LINE
—SW—SW—	PROPOSED SANITARY LINE
100 100	LIMIT OF DISTURBANCE

LOT AREA: 2058.1667 SQ. FT.
 REAR YARD: 203.8750 SQ. FT.
 FRONT YARD: 155.3333 SQ. FT.
 SIDE YARD: 161.1458 SQ. FT.
 OPEN AREA: 520.3841 SQ. FT. (25.28%)
 BUILDING FOOTPRINT: 1537.8125 SQ. FT.

18'-6"

41'-5 $\frac{1}{2}$ "

41'-5 $\frac{1}{2}$ "

186'-0"
Lot depth

AREA SECOND AND THIRD FLOOR ABOVE

REAR

ROOF ACCESS
FOR UNIT #6 ONLY

PILOT HOUSE

87'-6"
Building depth

46'-0 $\frac{1}{2}$ "

VACANT LOT

820 N 40TH STREET

822 N 40TH STREET

PROPOSED
3 STORY
RESIDENTIAL
MULTI-FAMILY
DWELLING

824 N 40TH STREET

35'-0"
80' of setbacks

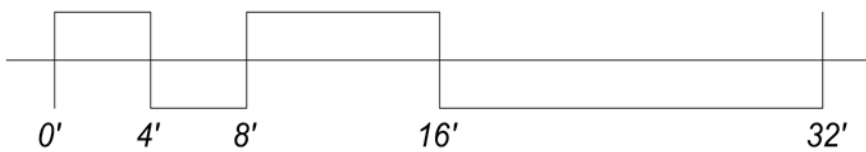
The diagram illustrates a street cross-section with the following components from top to bottom:

- EXISTING WATER LINE**: A horizontal line with a black dot at the intersection.
- EXISTING SEWER LINE**: A horizontal line with a black dot at the intersection.
- EXISTING GAS LINE**: A horizontal line with a black dot at the intersection.
- EXISTING CURB**: A horizontal line with a black dot at the intersection.
- FURNISHING ZONE**: A shaded area between the curb and the walking zone.
- WALKING ZONE**: A shaded area between the furnishing zone and the building zone.
- BUILDING ZONE**: A shaded area at the bottom of the diagram.

Vertical dimensions and labels on the right side of the diagram include:

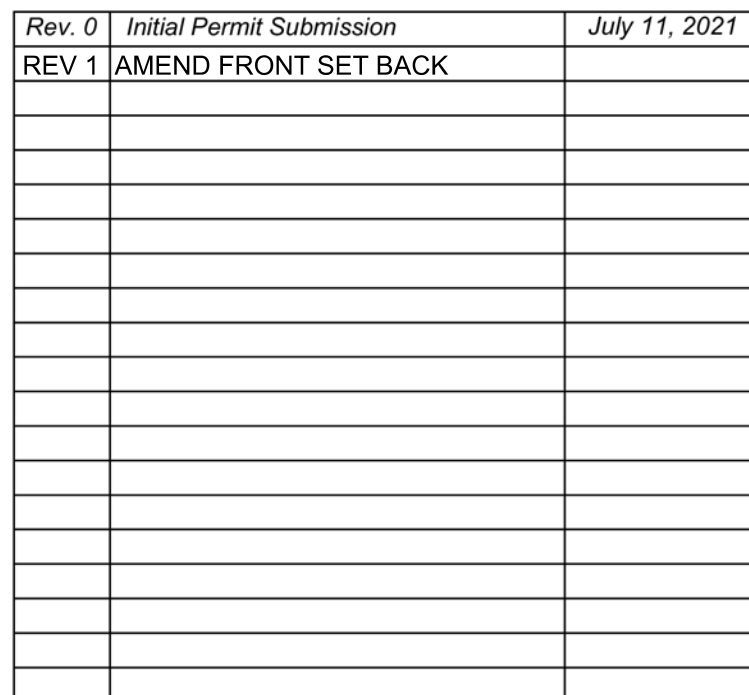
- 60'-0"**: Total width of the street.
- N 41st Street**: Label for the street.
- 34'-0"**: Width of the street.
- Carway**: Label for the carway.
- 8'-6"**: Width of the furnishing zone.
- 13'-0"**: Width of the walking zone.
- 4'-6"**: Width of the building zone.

SCALE: 1/8" = 1'-0"



PROPERTY SCHEDULE			
PARCEL #	ADDRESS	AREA	PROPOSED
885077080	822 N 40 Street	2058.1667 Sq.Ft.	2058.1667 Sq.Ft.
CMX-2		822 N 40th Street, Philadelphia, PA 19104	
PREVIOUS DISTRICT NAME - C1			
PERMITTED BUILDING TYPE SMALL SCALE NEIGHBORHOOD COMMERCIAL AND RESIDENTIAL MIXED USE			
USES PERMITTED AS OF RIGHT: HOUSEHOLD LIVING**; PERSONAL CARE HOME; PASSIVE RECREATION; DAY CARE; EDUCATIONAL FACILITIES; FRATERNAL ORGANIZATION; HOSPITAL, LIBRARIES AND CULTURAL EXHIBITS; RELIGIOUS ASSEMBLY; SAFETY SERVICES; TRANSIT STATION; UTILITIES AND SERVICES; BASIC; BUILDING OR TOWER-MOUNTED ANTENNA; BUSINESS, PROFESSIONAL OFFICE; MEDICAL, DENTAL, HEALTH SOLE PRACTITIONER; GOVERNMENT OFFICE; BUILDING SUPPLIES AND EQUIPMENT; CONSUMER GOODS (EXCEPT DRUG PARAPHERNALIA AND GUNS); FOOD, BEVERAGES, AND GROCERIES; PETS AND PET SUPPLIES; SUNDRIES, PHARMACEUTICALS, AND CONVENIENT SALES WEARING APPAREL AND ACCESSORIES; ANIMAL SERVICES; BUSINESS SUPPORT; PREPARED FOOD SHOP; SIT DOWN RESTAURANT; FINANCIAL SERVICES (EXCEPT PERSONAL CREDIT ESTABLISHMENTS); FUNERAL AND MORTUARY SERVICES; MAINTENANCE AND REPAIR OF CONSUMER GOODS; STRUCTURED PARKING; PERSONAL SERVICES (EXCEPT BODY ART AND FORTUNE TELLING SERVICES); RADIO, TELEVISION, AND RECORDING SERVICES; VISITOR ACCOMMODATIONS; PERSONAL VEHICLE REPAIR AND MAINTENANCE; PERSONAL VEHICLE REPAIR SALES AND RENTAL; GASOLINE STATION; VEHICLE EQUIPMENT AND SUPPLIES SALES AND RENTAL; MOVING AND STORAGE FACILITIES; ARTIST STUDIOS AND ARTISAN INDUSTRIAL; RESEARCH AND DEVELOPMENT; COMMUNITY GARDEN; MARKET OR COMMUNITY-SUPPORTED FARM			
	REQUIRED	PROPOSED	
LOT DIMENSIONS			
MIN. LOT WIDTH (FT)		19 Ft. 5 Inch.	
MIN. LOT AREA (SQ FT)	1440.00 Sq.Ft.	2,058.1667 Sq.Ft.	
MIN. OPEN AREA (% OF LOT)	INTERMEDIATE 25%, CORNER 20%	25.28% (250.3541 Sq.Ft.)	
FRONT SETBACK			
MINIMUM (FT)			
MINIMUM SIDE YARD WIDTH (6), PERMITTED RESIDENTIAL USES AS SET FORTH IN 14-701			
DETACHED, INTERMEDIATE (FT)	2/5 EACH		
DETACHED, CORNER (FT)	5 FT.		
SEMI-DETACHED (FT)			
ATTACHED (FT)			
MINIMUM SIDE YARD WIDTH (6) PERMITTED NONRESIDENTIAL USES AS SET FRONT IN 14-701			
DETACHED, INTERMEDIATE (FT)	2/8 EACH		
DETACHED, CORNER (FT)	8 FT.		
REAR YARD			
MIN. DEPTH (FT)	9 Ft.	18 Ft. 6 Inch.	
HEIGHT			
MAXIMUM (Ft.)	38 Ft.	38 Ft. 0 Inch.	
OPEN SPACE SQUARE FOOTAGE			
REAR YARD (Sq.Ft.)	144 Sq. Ft.	359.2083 Sq. Ft.	
SIDE YARD (Sq.Ft.)		161.1458 Sq. Ft.	
FRONT YARD (Sq.Ft.)			
BUILDING FOOTPRINT (Sq.Ft.)		1,537.8125 Sq. Ft.	
BUILDING USE	UNIT QTY	NOTES	
RESIDENTIAL MULTI-FAMILY	7 RESIDENTIAL UNITS	ROOF ACCESS FOR UNIT #6 ONLY	
STREETS DEPARTMENT		822 N 40th Street, Philadelphia, PA 19104	
RIGHT OF WAY			

BUILDING APPROVAL STAMP



<i>Scale</i>	<i>As indicated</i>
--------------	---------------------



Applied by L&I: Andrew DiDonato

Zoning Permit

Permit Number ZP-2021-007970

LOCATION OF WORK 822 N 40TH ST, Philadelphia, PA 19104-4802	PERMIT FEE \$2,887.00	DATE ISSUED 11/17/2021
	ZBA CALENDAR MI-2021-003483	ZBA DECISION DATE 11/17/2021
	ZONING DISTRICTS RSA3 CMX2	

PERMIT HOLDER 41 DEVELOPMENT LLC	3720 SPRUCE ST #508 PHILADELPHIA PA 19104
-------------------------------------	---

OWNER CONTACT 1

OWNER CONTACT 2

TYPE OF WORK New construction, addition, GFA change
--

APPROVED DEVELOPMENT For the erection of a three-story attached structure that includes a full basement and a private roof deck with a roof access structure. Size and location per plans. Permit extension for one year. New Expiration Date 11/17/2025.
--

APPROVED USE(S) Residential - Household Living - Multi-Family

THIS PERMIT IS SUBJECT TO THE FOLLOWING PROVISIO(S) AS ESTABLISHED BY THE ZONING BOARD OF ADJUSTMENT (ZBA)
--



CONDITIONS AND LIMITATIONS:

- Permits, including Zoning Permits **not** involving development, shall expire if the authorized work or Use is not commenced within, or if work is suspended or abandoned for period of, **six (6) months from the date of issuance** with the following exceptions:
 - 30-days or 10-days** for Permits related to Unsafe or Imminently Dangerous properties respectively.
 - 3-years** from issuance or date of decision by ZBA for Zoning Permits involving development.
 - 60-days** for Plumbing, Electrical or Fire Suppression Rough-In Approvals.
 - Any Permit issued for construction or demolition is valid for no more than **five (5) years**.
- All provisions of the Philadelphia Code must be complied with, whether specified herein or not. This permit does NOT constitute approval of any Violation of such Code.
- The issuance of this CO/permit does not affirm that the subject property is federally compliant with the Americans with Disabilities Act. Owner remains responsible for ensuring property complies with all local, state and federal requirements.

Zoning Permit

Permit Number ZP-2021-007970

Amend Permit 11/13/2025 to move the building forward, maintaining the original building dimensions, eliminating the front setback and extending the rear yard. No change the total occupied area.



APPROVED USE(S)

Residential - Household Living - Multi-Family

THIS PERMIT IS SUBJECT TO THE FOLLOWING PROVISIO(S) AS ESTABLISHED BY THE ZONING BOARD OF ADJUSTMENT (ZBA)



CONDITIONS AND LIMITATIONS:

- Permits, including Zoning Permits **not** involving development, shall expire if the authorized work or Use is not commenced within, or if work is suspended or abandoned for period of, **six (6) months from the date of issuance** with the following exceptions:
 - **30-days or 10-days** for Permits related to Unsafe or Imminently Dangerous properties respectively.
 - **3-years** from issuance or date of decision by ZBA for Zoning Permits involving development.
 - **60-days** for Plumbing, Electrical or Fire Suppression Rough-In Approvals.
 - Any Permit issued for construction or demolition is valid for no more than **five (5) years**.
- All provisions of the Philadelphia Code must be complied with, whether specified herein or not. This permit does NOT constitute approval of any Violation of such Code.
- The issuance of this CO/permit does not affirm that the subject property is federally compliant with the Americans with Disabilities Act. Owner remains responsible for ensuring property complies with all local, state and federal requirements.

Zoning Permit

Permit Number ZP-2021-007970

ADDITIONAL LOCATION(S)

See front side for primary parcel associated with this permit

PARCEL

822 N 40TH ST Philadelphia, PA 19104-4802

ADDITIONAL USE DETAILS

See front side for specific use(s) associated with this permit

Seven Dwelling Units

This permit is subject to the following specific conditions.

CONDITIONS

This Zoning Permit (ZP) shall expire if construction or operation pursuant to the permit or approval has not begun within three years after the date the permit or approval was granted.

Changes of use shall be valid for a period of six months unless an application for a Certificate of Occupancy is submitted for that use within such period.

See § 14-303 of the Philadelphia Zoning Code for more information.



Tax Exemption(Abatement): Information and applications for Real Estate Tax Abatement available from Office of Property Assessment www.phila.gov/opa, 215-686-4334, 601 Walnut St., 300W, Phila, PA 19106. Applications for new construction and commercial improvements due within 60 days of building permit issuance. Residential rehab and builder/developer applications due by Dec 31 of year of building permit issuance.