

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15439 of Larry D. and Linda H. Nelson, pursuant to 11 DCMR 3107.2 and 3108.1, for a variance from the allowable percentage of lot occupancy requirements (Sub-section 403.2), and a special exception under Section 2516 to allow an addition to a dwelling on a theoretical lot in an R-4 District at premises 440 New Jersey Avenue, S.E., (Square 694, Lot 36).

HEARING DATE: January 30, 1991
DECISION DATE: January 30, 1991 (Bench Decision)

SUMMARY ORDER

The site of the application is located in Advisory Neighborhood Commission (ANC) 6B. ANC 6B, which is automatically a party to the application, did not file a written statement of issues and concerns.

The Board duly provided timely notice of public hearing on this application, by publication in the D.C. Register, and by mail to ANC 6B and to owners of property within 200 feet of the site.

As directed by 11 DCMR 3324.2, the Board has required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for a variance from the strict application of the requirements of 11 DCMR 403.2. The Board has also required the applicant to prove the elements necessary to establish the case for a special exception pursuant to 11 DCMR 2516. No person or entity appeared at the public hearing in opposition to the application or otherwise requested to participate as a party in this proceeding. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, the Board concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3107, and that the requested 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. The Board further concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3108, and that granting the requested relief is in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not adversely affect the use of neighboring property in accordance with the Zoning Regulations and Maps. It is therefore ORDERED that the application is GRANTED.

Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.1 that the Order of the Board be accompanied by findings of fact and conclusions of law. The waiver

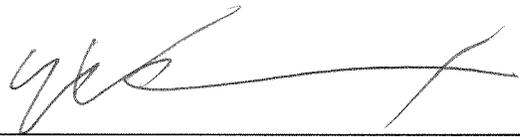
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will not prejudice the rights of any party, and is not prohibited by law.

VOTE: 4-0 (Maybelle Taylor Bennett, Paula L. Jewell, Sheri M. Pruitt and Carrie L. Thornhill to grant; Charles R. Norris not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: _____

FEB 11 1991

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHT ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, 'NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENMTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT.'

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

15439Order/BHS

GOVERNMENT OF THE DISTRICT OF COLUMBIA
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As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a letter has been mail to all parties, and FEB 11 1991 and mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and to is listed below:

Mr. & Mrs. Larry Nelson
440 New Jersey Avenue, S.E.
Washington, D.C. 20003

Allean Brown, Chairperson
Advisory Neighborhood Commission 6B
921 Pennsylvania Avenue, S.E., #108
Washington, D.C. 20003

Edward L. Curry
Executive Director

DATE: FEB 11 1991

Attes.9/BHS