

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 16432 of Sam and R.D. Ansellem, pursuant to 11 DCMR 3107.2, for a variance from Section 2001.3(c) to allow an addition to an existing non-conforming structure, a variance from the minimum side yard requirements, Section 405.9, and a variance from the minimum width of an open court requirement, Section 406.1, for addition to an existing non-conforming single family dwelling in an R-1-B District at premises 3417 Fulton Street, N.W. (Square 1941, Lot 18).

HEARING DATE: March 3, 1999
DECISION DATE: May 5, 1999

SUMMARY ORDER

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) 3C, and to owners of property within 200 feet of the site.

The site of the application is located within the jurisdiction of ANC 3C. ANC 3C, which is automatically a party to this application, did not file a written statement regarding the application.

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 variances from the strict application of the requirements of 11 DCMR 2001.3(c), 405.9 and 406.1. A public hearing was held on March 3, 1999. The property owner of the lot to the north of the subject property (Square 1941, Lot 19) appeared in opposition to the application at the public hearing. At the March 3, 1999 hearing, the applicants were requested to provide the Board with further submissions, including photographs showing shadows, if any, cast by the applicants' house on the adjacent property to the north, Lot 19, as well as further details describing how the applicants meet the burden of proof required for the Board to grant the requested relief. The Board finds that a decision 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 3107.2, that there exists an exceptional or extraordinary situation or condition related to the property which creates a practical difficulty for the owner in complying with the Zoning Regulations, 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. It is therefore **ORDERED** that the application be **GRANTED**, **SUBJECT** to the following **CONDITION**:

1. The balustrade shall be eliminated from the design.

Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.3 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 not prohibited by law.

VOTE: 3-0 (Sheila Cross Reid, Betty King and Jerry Gilreath to grant.)

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

Attested by:


JERRILY R. KRESS, FAIA
Director

JUL 14 1999

Final Date of Order: _____

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS 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 SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

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

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BZA APPLICATION NO. 16432

As Director of the Board of Zoning Adjustment, I certify and attest that on
JUL 14 1999 a copy of the decision entered on that date in this matter
was mailed first class, postage prepaid to each party in this case, and who is listed below:

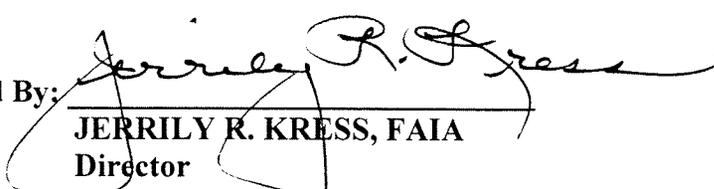
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Attested By:



JERRILY R. KRESS, FAIA
Director

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