

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Board of Zoning Adjustment**



**Application No. 17873 of Tanya Topolewski**, pursuant to 11 DCMR § 3103.2, for a variance from the lot area requirements to convert an existing flat (two-unit dwelling) to a three-unit apartment under subsection 401.3, in the R-4 District at premises 4114 New Hampshire Avenue, N.W. (Square 3229, Lot 58).

*Note: The original application was amended to request alternative relief. The Applicant's Preferred Option sought relief from the lot area requirement (§ 401.3), the lot occupancy requirement (§ 403.2 and § 2001.3), and the open court requirement (§ 406.1 and 2001.3). The Applicant's Option 2 plans sought relief from the lot area requirement (§ 401.3) and relief from the required closed court area and width (§ 406.1 and § 2001.3). The Applicant's third option was withdrawn at the hearing and is not addressed in this order.*

**HEARING DATE:** January 27, 2009  
**DECISION DATE:** March 3, 2009

**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

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) 4C and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 4C, which is automatically a party to this application. ANC 4C submitted a report in support of the application. The Office of Planning submitted a report in opposition to the application.

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 for a variance pursuant to § 3103.2. 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 adverse to any party.

Based upon the record before the Board and having given great weight to the ANC and OP reports filed in this case, the Board concludes that in seeking variances from §§ 401.3, 403.2, 406.1, and 2001.3, the applicant has met the burden of proving under 11 DCMR § 3103.2, that

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there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner 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.

The Board approved two sets of plans, giving the applicant a choice of which plans to implement. The Board approved both the applicant's Preferred Option as well as Option 2. The applicant's Preferred Option involves an exterior spiral staircase on the south side running from the ground to the top of the existing structure, providing the necessary access to the second floor unit and roof deck. The footprint of the spiral staircase (19.6 sq. ft) will be included in lot occupancy and will require the minor variances set forth in this order. Option 2 is composed of two elements – a spiral stair on the north side running from the ground to the top of the existing structure, providing the necessary access to the second floor unit and to the proposed roof deck. In this plan, access to the first floor would be by a service stair in the rear of the property.

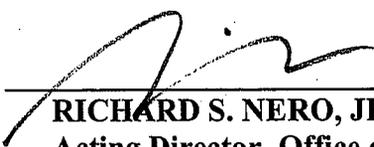
Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application be **GRANTED**, per attached Exhibit No. 29C - "Preferred Solution" and/or Exhibit No. 29D - "Option 2".

**VOTE: 5-0-0** (Marc D. Loud, Ruthanne G. Miller, Mary Oates Walker, and Shane L. Dettman to grant; Michael G. Turnbull to grant by absentee ballot)

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

Each concurring member approved the issuance of this order.

ATTESTED BY: \_\_\_\_\_

  
**RICHARD S. NERO, JR.**  
Acting Director, Office of Zoning

**FINAL DATE OF ORDER: MAR 06 2009**

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

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WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

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 RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

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.

TWR

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As Director of the Office of Zoning, I hereby certify and attest that on **MARCH 6, 2009**, a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party who appeared and participated in the public hearing concerning the matter and to each public agency listed below:

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**ATTESTED BY:**



**RICHARD S. NERO, JR.**  
**Acting Director, Office of Zoning**

TWR