

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 17905-A of James Iker and Hayes Nuss, pursuant to 11 DCMR § 3104.1, for a special exception to allow an addition to an existing single family dwelling under section 223, not meeting the lot occupancy requirements (section 403), the court requirements (section 406), and the nonconforming structure requirements (subsection 2001.3(b)(2)) and a special exception from the roof structure requirements under 411, in the R-4 District at premises 1329 R Street, N.W. (Square 239, Lot 802).

HEARING DATE: March 24, 2009
DECISION DATE: March 24, 2009 (Bench Decision)

CORRECTED SUMMARY ORDER

This order amends Order No. 17905, by correcting the reference to the approved plans. The correct exhibit reference for the plans is Exhibit No. 23 (the plans filed with the Applicant's prehearing statement), not Exhibit 10 (the plans filed with the original application).

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) 2F and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2F, which is automatically a party to this application. ANC 2F did not file a report on the application, but the Office of Planning's report dated March 17, 2009, indicated that, as of that date, the Zoning Committee of ANC 2F had voted unanimously to approve the addition and that it had been forwarded to the full ANC for consideration. The Office of Planning (OP) submitted a report in support of the relief pursuant to section 223 and expressed its opinion that

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BZA APPLICATION NO. 17905-A
PAGE NO. 2

relief under subsection 411.11 was not required (Exhibit 25).¹ Four letters of support from neighbors were submitted for the record (Exhibits 22, 26, 27, and 28).

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 under section 223 (403, 406, and 2001.3(b)(3)) and for a special exception under section 411. 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 OP report, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1, 223 (403, 406, and 2001.3(b)(3)), and 411, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the 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 § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application (pursuant to Exhibit 23 – Plans) be **GRANTED**.

VOTE: 4-0-1 (Marc D. Loud, Gregory N. Jeffries, Shane L. Dettman, Ruthanne G. Miller, to APPROVE. Mary Oates Walker, not participating, not voting.)

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: April 7, 2009

¹ The subject property is in a Historic District. According to the OP report, the Historic Preservation staff reviewed the concept application and concluded there were no issues with the proposal. (Exhibit 24)

BZA APPLICATION NO. 17905-A
PAGE NO. 3

UNDER 11 DCMR 3125.9, "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 FOR THE BOARD OF ZONING ADJUSTMENT."

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 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, STATUS AS A VICTIM OF AN INTRAFAMILY OFFENSE, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY

BZA APPLICATION NO. 17905-A
PAGE NO. 4

BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT
TO THIS ORDER.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



BZA APPLICATION NO. 17905-A

As Acting Director of the Office of Zoning, I hereby certify and attest that on APR 07 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 and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

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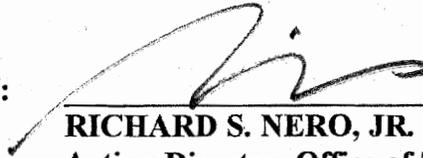
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BZA APPLICATION NO. 17905-A
PAGE NO. 2

ATTESTED BY:

A handwritten signature in black ink, appearing to read "R. Nero, Jr.", is written over a horizontal line.

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