

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 17941 of 1332 Vermont Avenue Partnership, pursuant to 11 DCMR § 3104.2, for a variance from the floor area ratio requirements under section 402, a variance from the lot occupancy requirements under section 403, a variance from the court requirements under section 406 and a variance from the nonconforming structure provisions under subsection 2001.3, to allow additions, including an enclosed stairway, to an existing five (5) unit apartment house in the R-5-B District at premises 1332 Vermont Avenue, N.W. (Square 242, Lot 89).¹

HEARING DATES: June 30, 2009 and July 28, 2009 (limited hearing)
DECISION DATE: July 14, 2009 and October 6, 2009

SUMMARY ORDER

SELF CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 5)

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. On May 6, 2009, ANC 2F voted, with a quorum present, to recommend

¹ The application was amended from the relief first requested. The Applicant initially sought variance relief in which to build both a stair and deck addition and also asked for rear yard relief from section 404. On September 8, 2009, the Applicant submitted three design alternatives for the Board's consideration, thereby amending its application. The three options were titled Option A, Option B, and Option C. Two of the options (Option A and Option B) still included both a stair and deck addition with both deck options being smaller than the original proposal and with one of those decks being smaller than the other. (Exhibit 32, Options A and B) The third option (Option C) had no deck addition and requested relief for only the stairway addition. (Exhibit 32, Option C) On October 7, 2009, the Applicant withdrew Options A and B and modified the application only to submit Option C for the Board's approval. Further, the Applicant modified the application to withdraw its request for rear yard relief under section 404, as the stairway will not require the relief. The Board approved Option C.

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approval of the application. The ANC submitted a timely report. (Exhibit 25) Although initially it had recommended denial of the application (Exhibit 24), the Office of Planning (OP) submitted a supplemental report on September 29, 2009, in support of the area variance relief, but only for the construction of the L-shaped addition and staircase. OP recommended denial of relief to construct either variation of the deck shown on the Applicant's September 8, 2009 supplemental filing and from § 404.1 (Minimum Rear Yard), which would not be needed to build the proposed new stairway addition.² (Exhibit 33) The District Department of Transportation (DDOT) had no objection to the application. (Exhibit 24) The record contains 9 letters of support of the application from adjoining neighbors and other residents. (Exhibits 28 and 22, tab D)

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 § 3103.2, for a variance from the floor area ratio requirements under section 402, a variance from the lot occupancy requirements under section 403, a variance from the court requirements under section 406, and a variance from the nonconforming structure provisions under subsection 2001.3. Based upon the record before the Board and having given great weight to the OP and ANC reports filed in this case, the Board concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2, 402, 403, 406, and 2001.3, that there exists an exceptional or extraordinary situation or condition related to the property that creates an undue hardship 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. 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.

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 32, Option C – Amended Plans) be **GRANTED**.

² OP's September 29, 2009 report (Exhibit 33) supplemented its initial report of June 23, 2009 (Exhibit 24) and thereby amended its recommendation as to the stairway addition from denial to approval. The applicant submitted a third set of drawings on September 8, 2009 and amended its application to enable the Board to consider three design alternatives to the original proposal, two of these were deck and stair options and the third (Option C) had no deck addition and only requested relief for the stairway addition. (Exhibit 32, Option C) The Board, with OP in assent, approved Option C. On October 7, 2009, the Applicant withdrew Options A and B (the options that included both a deck and stairway) from consideration and also modified its application to withdraw its request for rear yard relief from section 404. Consequently, OP's position of approval coincides with the application, as amended, that only includes Option C, which is what the Board approved.

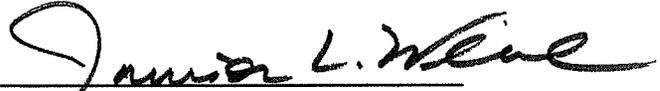
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VOTE: 3-0-2 (Shane L. Dettman, Michael G. Turnbull, Marc D. Loud, to APPROVE. Meridith H. Moldenhauer and a third Mayoral appointee (vacant) not participating, not voting.)

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

A majority of the Board members approved the issuance of this order.

ATTESTED BY: 
JAMISON L. WEINBAUM
Director, Office of Zoning

FINAL DATE OF ORDER: OCT 9 2009

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.

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

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

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As Director of the Office of Zoning, I hereby certify and attest that on OCT. 9, 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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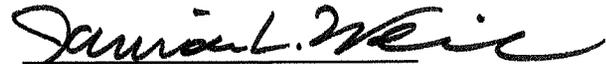
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ATTESTED BY:


JAMISON L. WEINBAUM
Director, Office of Zoning