

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 17994 of Theodore Houseknecht and Kuk-Ja Kim, pursuant to 11 DCMR § 3103.2, for a variance from the lot width requirements under subsection 401.3, a variance from the lot occupancy requirements under subsection 403.2, a variance from the accessory building height and stories requirements under subsection 2500.4, and a variance from the alley set back from centerline requirements under subsection 2300.4, for a second story addition to an existing garage in the R-4 District at premises 1336 T Street, N.W. (Square 238, Lot 823).¹

HEARING DATE: November 17, 2009
DECISION DATE: November 17, 2009 (Bench Decision)

SUMMARY ORDER

SELF CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 4 and 24).

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) 1B and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1B, which is automatically a party to this application. ANC 1B filed a report, dated June 12, 2009, recommending approval of the application. The ANC's report was filed on a timely basis and met the requirements of section 3115.1 of the Zoning Regulations. (Exhibit 16). The Office of Planning (OP) submitted a timely report in which it stated that it could not recommend approval of two of the requested area variances (from maximum lot occupancy under subsection 403.2 or from maximum height for accessory structures under section 2500.4),

¹ The Applicant submitted an amended application and self-certification. (Exhibit 24).

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while noting that it did not have an objection to several requests for relief, such as from lot width (§ 401.3) or the alley set back (§ 2300.2).² (Exhibit 28). The record contains letters of support from 8 neighbors. (Exhibits 21-23, 26, 27, 29, 30, and 31).

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 lot width requirements under subsection 401.3, a variance from the lot occupancy requirements under subsection 403.2, a variance from the accessory building height and stories requirements under subsection 2500.4, and a variance from the alley set back from centerline requirements under subsection 2300.4. Based upon the record before the Board and having given great weight to the OP³ and ANC reports filed in this case, the Board concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2, 401.3, 403.2, 2300.4, and 2500.4, 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.

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** (pursuant to Exhibit 7 – Plans).

VOTE: 4-0-1 (Meridith H. Moldenhauer, Michael G. Turnbull, Shane L. Dettman, and Marc D. Loud, to APPROVE. One Board member (vacant) not present, nor voting.)

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

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

ATTESTED BY:



JAMISON L. WEINBAUM

Director, Office of Zoning

NOV 20 2009

² OP's report indicated that the Applicant amended the application by withdrawing the relief originally requested from §§ 404, 2001.3, and 2300.4. OP indicated that it did not believe that the Applicant could meet the first or second prong of the variance test with regard to two of the area variances requested.

³ While the Board gave great weight to the OP report and testimony, the Board was not persuaded by OP's conclusions and ultimately granted the variance relief requested. Based on the record, the Board found that the Applicant made out a case and established the elements for variance relief.

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FINAL DATE OF ORDER: NOV 20, 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 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 NOV 20, 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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