

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18011 of Kil Huh and Jenny Yang, pursuant to 11 DCMR § 3104.1, for a special exception to allow a rear addition to an existing one-family detached dwelling under section 223, not meeting the lot area and width (section 401), side yard (section 405) and nonconforming structure (subsection 2001.3) requirements in the R-1-B District at premises 4419 45th Street, N.W. (Square 1591, Lot 830).¹

HEARING DATE: December 22, 2009
DECISION DATE: December 22, 2009 (Bench Decision)

SUMMARY ORDER

SELF CERTIFIED

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

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) 3E and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 3E, which is automatically a party to this application. ANC 3E filed a resolution approved at a regularly scheduled, duly noticed meeting on November 5, 2009, at which a quorum was present, 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 21). The Office of

¹ The Applicants' supplemental submission, dated December 4, 2009, requested lot area and width variance relief pursuant to § 2001.3 to facilitate the conversion of the tax lot to a lot of record. OP, in its report of December 15, 2009, suggested that the appropriate variance relief should be from § 401.3 and reviewed the application thusly, recommending approval of such relief. At the hearing the Board found that no variance relief was necessary because the record lot approval process was already underway, but added the lot area and width relief to the special exception relief granted.

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Planning (OP) submitted a timely report in which it stated that it recommended approval of special exception relief under § 223 and variance relief under § 401.3.² (Exhibit 25). The record contains letters of support from the several neighbors, including the two abutting neighbors, to the Applicants' property. (Exhibits 20 and 23).

As directed by 11 DCMR § 3119.2, the Board has required the Applicants 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 (§§ 401, 405 and 2001.3). 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, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 223 (401, 405 and 2001.3), 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.

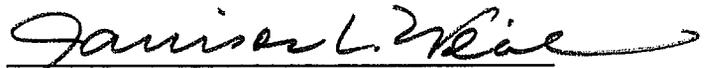
Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application be **GRANTED** (pursuant to Exhibit 9 – Plans).

VOTE: 3-0-2 (Shane L. Dettman, Meridith H. Moldenhauer, Michael G. Turnbull, to APPROVE. No other Board members participating, 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

FINAL DATE OF ORDER: DEC 23 2009

² At the hearing the Board found that no variance relief was necessary, but added lot area and width relief under § 401 to the special exception relief granted.

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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 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 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 DEC 23, 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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