

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



**Application No. 18093 of Darryl Smith**, 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 side yard requirements (section 405), the lot occupancy requirements (section 403), and the nonconforming structure provisions (section 2001.3), in the R-4 District at premises 4100 Grant Street, N.E. (Square 5077, Lot 14).<sup>1</sup>

**HEARING DATES:** July 27, 2010 and August 3, 2010<sup>2</sup>  
**DECISION DATE:** August 3, 2010

**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”) 7D and to owners of property within 200 feet of the site.<sup>3</sup> The site of this application is located within the jurisdiction of ANC 7D, which is automatically a party to this application. No report was filed by ANC 7D, nor did anyone from the ANC appear at the hearing to give testimony. The Applicant testified that he had spoken with the ANC representative and that they were in support of the project. However, in the absence of a written report or testimony from the ANC, there was nothing to which the Board could give great weight. The Office of Planning (“OP”)

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<sup>1</sup> The application was amended to include relief from lot occupancy requirements under § 403 and from limitations on enlargements of non-conforming structures under § 2001.3.

<sup>2</sup> The hearing that was scheduled for July 27<sup>th</sup> was rescheduled to August 3<sup>rd</sup>.

<sup>3</sup> While the Applicant had posted the required notices on the property, he had done so 10 days late. The Board considered the matter as a preliminary matter. The Board waived the rules regarding the posting of notices, noting that the notices were in fact posted, although for a shortened period of time; the Applicant had spoken with most of his neighbors about the project; and he had signed letters of support from his two adjacent neighbors, demonstrating that the neighbors had actual notice of the project.

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support were received from the Applicant's two adjacent neighbors, Lillian Hart (Exhibit 25) and Beverly Middleton (Exhibit 24).

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 a special exception under § 223, not meeting the side yard requirements (§ 405), the lot occupancy requirements (§ 403), and the provisions limiting the enlargement of non-conforming structures (§ 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 OP report, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 223, 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 7 – Plans) be **GRANTED**.

**VOTE:**       **3-0-2** (Shane L. Dettman, Anthony J. Hood, and Nicole C. Sorg to APPROVE; Meridith H. Moldenhauer and one other Board member (vacant) not participating or 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*  
**JAMISON L. WEINBAUM**  
Director, Office of Zoning

**FINAL DATE OF ORDER:**     AUG 06 2010    

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, 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.

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
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**AUG 06 2010**

As Director of the Office of Zoning, I hereby certify and attest that on \_\_\_\_\_, 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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Capitol Heights, MD 20723

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5002 Hayes Street, N.E.  
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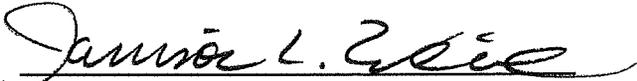
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**ATTESTED BY:**



**JAMISON L. WEINBAUM**  
**Director, Office of Zoning**