

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



**Application No. 18221 of the David King and Betsy Damos**, pursuant to 11 DCMR § 3103.2, for area variances from the closed court requirements under § 406.1 and from the nonconforming structure provisions under § 2001.3, to allow a one-story addition to an existing non-conforming single family row dwelling in the R-4 District at premises 123 10th Street, S.E. (Square 943, Lot 808).<sup>1</sup>

**HEARING DATE:** June 14, 2011

**DECISION DATE:** June 14, 2011

**SUMMARY ORDER**

**REVIEW BY THE ZONING ADMINISTRATOR**

The application of David King and Betsy Damos (the “Applicant”) was accompanied by a memorandum, dated March 22, 2011, from the Zoning Administrator (“ZA”). That memorandum stated that special exception relief was required from the Board of Zoning Adjustment (“Board” or “BZA”) for the Applicant’s proposed addition to the subject property. (Exhibit 5.) Thereafter, the ZA re-reviewed his calculations and issued a revised determination letter, dated May 23, 2011. The revised determination letter stated that a review of the Applicant’s plans for the proposed addition to the subject property would require the Board’s approval of area variances pursuant to § 2001.3 and § 406.1, to permit an addition to an existing non-conforming single family row dwelling in the R-4 Zone.<sup>2</sup> (Exhibit 34.)

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<sup>1</sup> In the pre-hearing statement, the Applicant amended the application, changing from a request for three special exceptions to a request for two variances, one from the closed court requirements under § 406.1 and the other from the nonconforming structure provisions of § 2001.3. The caption has been changed to reflect those changes. (Exhibit 32.) The Applicant also provided the Board with revised plans, dated June 14, 2011, reflecting those changes as well as removing a pergola structure, as shown on sheets A-1.0, A-1.1, and A-3.0, which is what the Board approved. (Exhibit 37.)

<sup>2</sup> The Applicant amended the application as a result of the ZA’s revised determination of the relief needed.

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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”) 6B 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 6B, which is automatically a party to this application. ANC 6B filed its first report, dated May 11, 2011, which indicated that at a duly noticed public meeting with a quorum of Commissioners present, the ANC voted to support the application as first proposed. (Exhibit 27.) Subsequent to amending the application, the Applicant provided the ANC with the revised plans and documentation for how they met the burden of proof. ANC 6B held a special meeting that was duly noticed to consider the revised application and filed a second report, dated June 13, 2011. That second report indicated that at a properly noticed special public meeting on June 7, 2011 at which a quorum was present, the ANC voted unanimously by a vote of 7:0:0 to support the amended application for variance relief. (Exhibit 38.)

The Office of Planning (“OP”) submitted a timely report recommending approval of the amended application for variance relief. (Exhibit 36.) Letters of support were received for the record from neighbors Sandip Mehta, owner of 121 10<sup>th</sup> Street, S.E., (Exhibits 9, 25 and 35); Susan and David Fago, 920 Independence Avenue, S.E., (Exhibit 26); and from Michele G. Johnson, 125 10<sup>th</sup> Street, S.E. (Exhibits 9 and 28.) These letters of support noted that neighbors had seen and supported the amended application and plans.

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 variances from the closed court requirements under § 406.1 and from the nonconforming structure provisions under § 2001.3, to allow an addition to an existing non-conforming single family row dwelling in the R-4 District. Based upon the record before the Board and having given great weight to the ANC and OP reports filed in this case, the Board concludes that the Applicant has met the burden of proving under 11 DCMR §§ 3103.2, 406.1 and 2001.3, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty or 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 the 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. The waiver will not prejudice the rights of any party, and is appropriate in this case. It is

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<sup>3</sup> In response to the Board’s questions, the Applicant indicated at the hearing that signs on the property showing the amended relief had been posted and that the next door neighbors and ANC shown the revised plans which they all supported.

therefore **ORDERED** that this application (pursuant to Exhibit 37 – Revised Plans)<sup>4</sup> is hereby **GRANTED**.

**VOTE:**       **4-0-1** (Nicole C. Sorg, Peter G. May, Lloyd J. Jordan, and Jeffrey L. Hinkle to GRANT; Meridith H. Moldenhauer not participating.)

**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:**     **JUN 16 2011**    

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 PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

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. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

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<sup>4</sup> The Board approved the revised plans, dated June 14, 2011, with the removal of a pergola structure, as shown on sheets A-1.0, A-1.1, and A-3.0. (Exhibit 37.)

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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, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
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As Director of the Office of Zoning, I hereby certify and attest that on June 16, 2011, a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, or delivered by electronic mail in the case of those ANCs and SMDs that have opted to receive notices thusly, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

Jamie Santiago  
P.O. Box 234  
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David King and Betsy Damos  
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Washington, D.C. 20003

Chairperson  
Advisory Neighborhood Commission 6B  
703 D Street, S.E.  
Washington, D.C. 20003

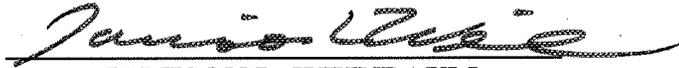
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ATTESTED BY:



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