

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18263-A of Stephanie and John Lester, pursuant to 11 DCMR §§ 1202.1 and 3104.1, for a special exception under § 223 to allow a two-story rear addition to an existing one-family row dwelling, not meeting requirements for lot occupancy (§ 403), rear yard (§ 404), or open court width (§ 406) in the CAP/R-4 District at premises 117 C Street, S.E. (Square 733, Lot 23).

HEARING DATE: October 25, 2011
DECISION DATE: November 8, 2011
ORDER DATE: November 17, 2011
**RECONSIDERATION
DECISION DATE:** January 10, 2012

**ORDER DISMISSING
MOTION FOR RECONSIDERATION**

The order of the Board of Zoning Adjustment (“Board”) approving this application was issued on November 17, 2011. On November 23, 2011, a motion for reconsideration of the Board’s decision, as reflected in that order, was submitted by Charles and Susan Parsons (“the Parsons”), neither of whom requested party status in this proceeding. Pursuant to § 3126.2 of the Board’s Rules of Practice and Procedure (Title 11 DCMR, Chapter 31), only parties may seek reconsideration. Pursuant to 11 DCMR § 3100.5, the Board may, for good cause shown, waive many of its rules, including this one. However, the November 23rd motion included no waiver request. By submission received December 21, 2011, the Parsons requested such a waiver claiming “good cause because they: 1) are definitely within the area affected by the application, 2) opposed the application at the October 25, 2011 hearing, and 3) filed submissions concerning [an] issue on November 3, 2011, and 4) filed a timely motion for reconsideration.” By letter submitted January 3, 2012, the Applicant requested denial of the Parsons’ request for a waiver of the party requirement as well as denial of what the Applicant characterized as the Parsons’ “request for party status ... and for reconsideration” of the Board’s decision to grant the application.

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The Board concludes that the waiver should not be granted. The Parsons did not submit a timely request for party status, and to the extent that their motion for waiver was intended to seek party status, it must be denied as inexcusably late and for failure to satisfy, or even address, the requirements set forth in § 3106.2 of the Zoning Regulations. Nor does the Board find good cause to waive the party requirement for submission of a motion for reconsideration, finding that none of the factors proffered by the Parsons demonstrated good cause.

The fact that the Parsons live in proximity to the property and opposed the application only begs the question why they did not seek party status when they had an opportunity. That they were permitted to file a submission before the Board only demonstrates that the Board went out of its way to accommodate them, but that accommodation did not elevate their status to that of a party or vest them with equivalent rights. Finally, the fact that the motion was timely is not relevant at all. To hold otherwise would eviscerate the party status prerequisite for seeking reconsideration and replace it with only a requirement for timely filing.

There may be extraordinary circumstances where the Board permits a non-party to seek reconsideration, as when notice of a hearing is not given, *see Dietrich v. District of Columbia Bd. of Zoning Adjustment*, 293 A.2d 470, 471 n.2 (D.C. 1972), but such circumstances are not present here.

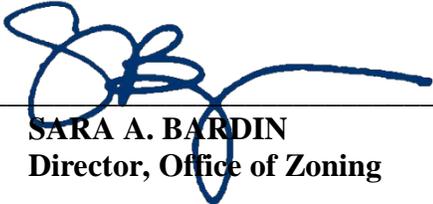
For the reasons stated above, it is **ORDERED** that the request for a waiver of the party requirement is **DENIED** and the motion for reconsideration is **DISMISSED**.

VOTE: 5-0-0 (Meridith H. Moldenhauer, Lloyd J. Jordan, Anthony J. Hood; Nicole C. Sorg, and Jeffrey L. Hinkle (by absentee ballot) voting to Deny.)¹

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

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

ATTESTED BY: _____


SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: August 15, 2012

¹ Although the oral motion approved by the Board was only to “deny” the waiver request, this Order reflects the Board action to include the dismissal of the reconsideration motion since the denial of the waiver necessarily results in Board’s inability to reach the merits.

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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.