

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Board of Zoning Adjustment



**Application No. 18318 of KB Developers LLC and Rupp OB LLC**, pursuant to 11 DCMR § 3103.2, for a variance from the lot width and area requirements under § 401.3, to allow the construction of three one-family row dwellings on alley lots in the R-4 District at premises 1321 Naylor Court, N.W. (Square 367, Lot 862).<sup>1</sup>

**HEARING DATE:** March 6, 2012

**DECISION DATE:** March 6, 2012 (Bench Decision)

**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 5.)

The Board of Zoning Adjustment ("Board" or "BZA") provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to the Applicant, Advisory Neighborhood Commission ("ANC") 2F, and to all owners of property within 200 feet of the property that is the subject of this application. The subject property is located within the jurisdiction of ANC 2F, which is automatically a party to this application. ANC 2F submitted a report in support of the application. In its report dated December 11, 2011, the ANC stated that at a regularly scheduled and duly noticed meeting on November 2, 2011, at which a quorum was present, the ANC voted 5:0 to recommend approval of the application. (Exhibit 26.) The Office of Planning ("OP") submitted a timely report which stated that OP did not oppose the requested lot dimension relief under § 401, but that OP could not recommend approval of lot occupancy relief under § 403.<sup>2</sup> (Exhibit 32.) The District Department of Transportation submitted a letter of no objection to the project. (Exhibit 33.)

Minutes from the July 20, 2011 meeting of the Blagden Alley-Naylor Court Association ("BANCA") were submitted for the record. The minutes showed that there was support for the project. (Exhibit 11.) Also, a letter from the Secretary of BANCA references a BANCA vote in

<sup>1</sup> The Applicant amended the application by eliminating a request for lot occupancy relief under § 403.

<sup>2</sup> The subject property is in the Shaw and the Blagden Alley/Naylor Court Historic Districts. OP's report indicated that the Historic Preservation Review Board approved the demolition of the existing garage and the new construction in concept at the HPRB's September 22, 2011 hearing. (Exhibit 32.)

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support of the proposal. (Exhibit 12.) The record also includes an email, dated July 25, 2011, from Greg Melcher, a neighbor and owner of 1327 10<sup>th</sup> Street, and 1330 Naylor Court, N.W., who expressed support for the project. (Exhibit 13.)

Party status requests in support of the application were submitted by Dr. David Salter and Linda Wright. (Exhibits 28 and 29.) Dr. Salter whose property is within 50 yards of the proposed project was granted party status and spoke at the hearing in support of the development project. Ms. Wright was not granted party status; however, she spoke as a witness in support of the development at the hearing.

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for a variance pursuant to § 3103.2 from the strict application of the lot width and area requirements under § 401.3, to allow the construction of three one-family row dwellings on alley lots in the R-4 District. 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.

The Board closed the record at the conclusion of the hearing. 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 proof pursuant to 11 DCMR § 3103.2 for an area variance under § 401.3, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the requested 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 requirements 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 therefore **ORDERED** that the application is hereby **GRANTED (pursuant to Exhibit 43 – Revised Plans<sup>3</sup>)**.

**VOTE:**        **4-0-1** (Meridith H. Moldenhauer, Jeffrey L. Hinkle, Nicole C. Sorg, and Konrad W. Schlater, to Approve. Lloyd L. Jordan, abstaining.)

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

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

**ATTESTED BY:**

  
\_\_\_\_\_  
**SARA A. BARDIN**  
Director, Office of Zoning

<sup>3</sup> The Board gave leave for the Applicant to submit revised plans for the record.

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**FINAL DATE OF ORDER:       MAR 20 2012**

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.

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.

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**MAR 20 2012**

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, 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:

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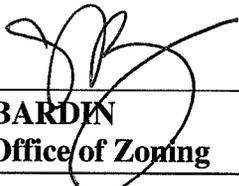
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**ATTESTED BY:**

  
\_\_\_\_\_  
**SARA A. BARDIN**  
**Director, Office of Zoning**

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EXHIBIT NO. 45