

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



**Application No. 18343 of Katherine Klein and John Gomperts**, pursuant to 11 DCMR § 3103.2, for a variance from the lot occupancy requirements under § 403, a variance from the rear yard requirements under § 404, and a variance from the nonconforming structure provisions under § 2001.3, to allow a rear deck addition to an existing one-family row dwelling in the D/R-3 District at premises 1618 22nd Street, N.W. (Square 2512, Lot 23).

**HEARING DATE:** May 1, 2012

**DECISION DATE:** May 1, 2012

**SUMMARY ORDER**

**REVIEW BY THE ZONING ADMINISTRATOR**

The application was accompanied by a memorandum, dated December 11, 2011, from the Zoning Administrator stating that a review of plans and the Applicant's application indicates that Board of Zoning Adjustment ("BZA" or "Board) approval is needed for variances from 11 DCMR § 403.2 for a one-story rear deck addition to a structure that will be in excess of the allowable lot occupancy in the D/R-3 District; from § 404.1 for a one-story rear deck addition to a structure that does not comply with the minimum rear yard setback requirements in the D/R-3 District; and from § 2001.3 for a one-story rear deck addition to a nonconforming structure that does not comply with the maximum lot occupancy in the D/R-3 Zone District. (Exhibit 5.)

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 the Applicant, Advisory Neighborhood Commission ("ANC") 2D, 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 2D, which is automatically a party to this application. The ANC submitted a report in support of the application. ANC 2D submitted a report, dated March 1, 2012, that indicated that at a duly scheduled and noticed public meeting, at which a quorum was present, the ANC voted to support the application by a vote of 2:0. (Exhibit 26.) The Office of Planning ("OP") submitted a report in support of the application. (Exhibit 30.) The District Department of Transportation ("DDOT") submitted a letter of no objection to the requested variances. (Exhibit 29.) Letters of support were submitted to the record from neighbors Lynn Skyneer and Moustafa Soliman, 2203 Massachusetts Avenue, N.W. (Exhibit 25) and Kathryn and Emil Frankel, 1616 22<sup>nd</sup> Street, N.W. (Exhibit 9.)

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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 under § 3103.2 from the strict application of the lot occupancy requirements under § 403; the rear yard requirements under § 404; and the nonconforming structure provisions under § 2001.3, to allow a rear deck addition to an existing one-family row dwelling. 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 variances under §§ 403, 404, and 2001.3, 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 11-Plans)**.

**VOTE:**       **3-0-2** (Lloyd L. Jordan, Konrad W. Schlater, and Rashida Y.V. MacMurray, to Approve. Nicole C. Sorg and Jeffrey L. Hinkle, not present and not voting.)

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

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

**ATTESTED BY:**

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

**FINAL DATE OF ORDER:**    **MAY 07 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

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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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As Director of the Office of Zoning, I hereby certify and attest that on **MAY 07 2012**, 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:

Katherine Klein and John Gomperts  
1618 22<sup>nd</sup> Street, N.W.  
Washington, D.C. 20008

Stephen Muse, FAIA  
Muse Architects  
7401 Wisconsin Avenue  
Bethesda, MD 20814

Chairperson  
Advisory Neighborhood Commission 2D  
2126 Connecticut Avenue, N.W., #34  
Washington, D.C. 20008

Single Member District Commissioner 2D02  
Advisory Neighborhood Commission 2D  
2122 California Street, N.W.  
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Jack Evans, Councilmember  
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Melinda Bolling, Esq.  
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**ATTESTED BY:**

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