

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18776 of Ann Campbell, pursuant to 11 DCMR § 3103.2, for variances from the lot occupancy (§ 772.1), and open court (§ 776.3) requirements for second floor rear deck and stair additions in the C-2-A District at premises 700 and 702 Kennedy Street, N.W. (Square 3152, Lots 59 and 60).¹

HEARING DATES: June 17, 2014 and July 15, 2014²
DECISION DATE: September 16, 2014

SUMMARY ORDER

REVIEWED BY THE ZONING ADMINISTRATOR

This application was accompanied by a memorandum from the Zoning Administrator certifying the required relief. (Exhibit 13.)

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”) 4D, 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 4D, which is automatically a party to this application. The ANC did not submit a report that appeared on the record at the time of the Board’s public

¹ The Applicant amended the application to seek variance relief from the lot occupancy under § 772.1 and open court requirements under § 776.3. The caption has been altered to reflect that change.

² The application was postponed from the Public Hearing of June 17, 2014 at the Applicant’s request. The case was heard on July 15, 2014. At its hearing on July 15, 2014, the Board completed public testimony, closed the record, and scheduled its decision for September 16, 2014. At that point, the ANC had not filed a report. The Board requested additional information to supplement the record, including requesting the Applicant meet with ANC 4D and ensure that the ANC letter is submitted into the record and to submit a letter of authorization for Mr. Campbell to represent his mother. Also, the Board requested OP to submit a supplemental report to include OP’s final position on the amended relief.

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meeting to deliberate and decide the case on September 16, 2014.³ The ANC also did not testify at the public hearing.

The Office of Planning (“OP”) submitted a report dated June 11, 2014, indicating that OP would not be able to support the application. The OP report was untimely, but the agency requested a waiver of the timeliness requirements which was granted by the Board. (Exhibits 26 and 27.) OP submitted a supplemental report dated September 9, 2014, in support of the variance relief. (Exhibit 33.) The District’s Department of Transportation (“DDOT”) submitted a timely report indicating it had no objection to the application. (Exhibit 25.)

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 variances under § 3103.2 from the strict application of the lot occupancy (§ 772.1), and open court (§ 776.3) requirements in order to construct second floor rear deck and stair additions in the C-2-A 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 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 area variances under §§ 772.1 and 776.3, 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, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 10.**

³ The ANC held a special public meeting on September 15, 2014, and submitted a written report dated September 15, 2014, recommending approval of the application. However, when the Board was deliberating on September 16, 2014, the report did not appear in the record and as best the Board knew, had not been filed. Further, the report was missing key information, so even had it been received in time, it would not have been given “great weight.” The ANC’s letter indicated that at a regularly scheduled, duly noticed special public meeting held on September 8, 2014, with a quorum present, the ANC met and considered the application, but the report failed to record the ANC’s actual vote. (Exhibit 35.)

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VOTE: **3-0-2** (Lloyd L. Jordan⁴, Jeffrey L. Hinkle, and Michael G. Turnbull to APPROVE; S. Kathryn Allen, Marnique Y. Heath, not present nor 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:


SARA A. BARDIN

Director, Office of Zoning

FINAL DATE OF ORDER: September 18, 2014

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 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO § 3129.9, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL TOLL OR 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,

⁴ Chairman Jordan announced at the start of the deliberations on the case on September 16, 2014, that while he had not attended the hearing, he had read the full record, including the supplemental material, and was ready to deliberate and vote on the matter.

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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.