

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18798 of Janet Katowitz, pursuant to 11 DCMR §§ 3104.1 and 3103.2, for a special exception for a rear deck addition to an existing one-family row dwelling under § 223, not meeting the lot occupancy (§ 403), rear yard (§ 404), and nonconforming structure (§ 2001.3) requirements and for a variance under § 199 Definition of Yard from the requirement that no structure shall occupy in excess of 50% of a required yard, in the R-4 District at premises 1425 North Carolina Avenue, N.E. (Square 1056, Lot 94).¹

HEARING DATE: July 15, 2014

DECISION DATE: July 15, 2014

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 Advisory Neighborhood Commission ("ANC") 6A and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6A, which is automatically a party to this application. ANC 6A submitted a letter dated July 11, 2014, indicating that at a regularly scheduled and properly noticed meeting on July 10, 2014, with a quorum present, the ANC voted 5-5-1 to support the application for the special exception and variance relief requested. (Exhibit 28.)

The Office of Planning ("OP") submitted a timely report recommending approval of the application with a condition. (Exhibit 26.) The District Department of Transportation ("DDOT")

¹ The Applicant amended the application to include variance relief under § 199 Definition of Yard from the requirement that no structure shall occupy in excess of 50% of a required yard. (Exhibit 25.)

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submitted a letter recommending “no objection” provided the Applicant designed the alley gate to swing inward and not outwards into the alley. (Exhibit 24.)²

Letters of support were submitted for the record by Michael Almy, the neighbor to the east of the Applicant, and from the Capitol Hill Restoration Society. (Exhibits 25C and 30.)

Letters of opposition were submitted for the record by Charles Brockner, 1421 Ames Place, N.E., and Sharon D. Davis, 1433 Ames Place, N.E. (Exhibits 20-22.)

Variance Relief

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 from the requirement under § 199 Definition of Yard that no structure shall occupy in excess of 50% of a required yard. 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.

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 in seeking the variance relief that the Applicant has met the burden of proving under 11 DCMR § 3103.2, 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.

Special Exception Relief

The Applicant satisfied the burden of § 3119.2 in its request for special exception relief to allow a rear deck addition to an existing one-family row dwelling under § 223, not meeting the lot occupancy (§ 403), rear yard (§ 404), and nonconforming structure (§ 2001.3) requirements. 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 concludes that the Applicant has met the burden of proof for special exception relief, pursuant to 11 DCMR §§ 3104.1, 223, 403, 404, and 2001.3 that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and

² At the public hearing, the Applicant proffered that she would change the project, as requested by DDOT in its report, so as to design the alley gate to swing inwards into the property rather than to swing outwards into the alley.

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Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

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 therefore **ORDERED** that this application be **GRANTED SUBJECT TO THE APPROVED REVISED PLANS AT EXHIBIT 7.**

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

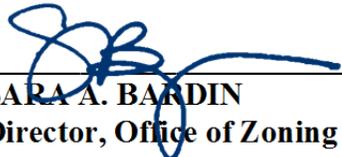
A majority of the Board members approved the issuance of this summary order.

VOTE: **4-0-1** (S. Kathryn Allen, Marnique Y. Heath, Jeffrey L. Hinkle, and Michael G. Turnbull, to Approve; Lloyd L. Jordan, not participating or 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: July 16, 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.

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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.