

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19108 of Jennifer and Lyle Vold, pursuant to 11 DCMR § 3104.1, for a special exception under § 223, not meeting the lot occupancy requirements under § 403, to construct a garage with a rooftop deck in the R-4 District at premises 134 11th Street N.E. (Square 965, Lot 35).

HEARING DATES: November 24 and December 15, 2015¹
DECISION DATE: December 15, 2015

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 9 and 35.)

The Board of Zoning Adjustment (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 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. The ANC submitted a report dated November 13, 2015, indicating that at a regularly scheduled and properly noticed meeting on November 12, 2015, at which a quorum was in attendance, ANC 6A voted 3-2-1 to support the application. (Exhibit 32.) The ANC indicated that the proposed garage rooftop deck would not unduly affect neighboring properties with regard to light, air, and privacy, provided that the height of the garage’s parapet wall be raised to 15 feet and that a green roof be included atop the garage that sets the roof deck back seven feet from the alley and is impassable.

The Applicant submitted revised plans that include the seven-foot green roof, as discussed in the ANC report. (Exhibit 36.) Based on the ANC’s recommendation to raise the height of the structure to 15 feet, the Applicant indicated that it presented both a 13-foot option and a 15-foot option before the Historic Preservation Review Board (“HPRB”), and that HPRB’s preference was for the 13-foot option. The Applicant included drawings of both the 15-foot and 13-foot options for

¹ The public hearing for this application was scheduled for November 24, 2015 and continued to December 15, 2015 to allow the Applicant to meet the notice requirements of 11 DCMR § 3113.14.

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the Board's review. (Exhibit 36.) The Board determined that reducing the height of the structure by two feet would not have an impact on the privacy of surrounding neighbors. Based on this determination and based on HPRB's preference, the Board approved the proposed plans for the 13-foot garage and roof deck structure.

The Office of Planning ("OP") submitted a timely report and testified at the hearing in support of the application. (Exhibit 33.) OP noted that it would support either the 13-foot or the 15-foot option. The District's Department of Transportation ("DDOT") submitted a timely report indicating it had no objection to the approval of the application. (Exhibit 31.)

The Board received four letters in support of the application from nearby residents, including the adjacent neighbor to the north of the property. (Exhibits 27 - 30.) Capitol Hill Restoration Society Zoning Committee submitted a letter indicated that it voted on November 12, 2015 to oppose the roof deck element of the proposed project. The committee noted that it has no objection to the construction of the garage.

At the Board's public hearing on December 15, 2015, John E. Fletcher Jr. testified in opposition to the roof deck portion of the project, raising concerns about impacts on privacy and the historic character of the alley. Mr. Fletcher also submitted two letters in opposition to the record. (Exhibits 34 and 41.)

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception under §§ 223 and 403. Although a neighbor testified in opposition to this application, the Board received no requests for party status in opposition. Accordingly, no parties appeared at the public hearing in opposition to this application. Thus, 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 OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1, 223, and 403, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in the accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.5, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application is hereby **GRANTED, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 36, WITH THE PARAPET WALL AT A HEIGHT OF 13 FEET.**

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VOTE: 4-0-1 (Marnique Y. Heath, Peter G. May, Frederick L. Hill, and Jeffrey L. Hinkle to APPROVE; one Board seat vacant.)

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: December 21, 2015

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,

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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.