

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19245 of George Simpson, as amended,¹ pursuant to 11 DCMR § 3104.1, for special exception relief under 11 DCMR § 223, for not meeting the lot occupancy requirements of § 403.2, the side yard requirements of § 405.8, and the nonconforming structure requirements of § 2001.3, to construct an enlargement to a nonconforming single family dwelling in the SSH-1/R-1-B District at 1605 Madison Street, NW (Square 2722W, Lot 1).

HEARING DATE: April 12, 2016

DECISION DATE: April 26, 2016

SUMMARY ORDER

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit ["Ex."] 12 (original) and Ex. 28 (revised.)) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

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") 4A and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 4A, which is automatically a party to this application. ANC 4A filed a report, which indicated that at a properly noticed, regularly scheduled public meeting held on April 5, 2016, with a quorum of Commissioners present, the ANC voted 6-0 to support the application. (Ex. 37.)

The Office of Planning ("OP") submitted a report indicating its support of the amended application (Ex. 34) and testified in support of the application at the public hearing. The District

¹ The Applicant originally applied for variance relief from side yard (§ 405.8) and nonconforming structure (§ 2001.3) requirements, but amended the application to one for special exception relief under 11 DCMR § 223, for not meeting the lot occupancy requirements of § 403.2, the side yard requirements of § 405.8, and the nonconforming structure requirements of § 2001.3, to construct an enlargement to a nonconforming single family dwelling in the SSH-1/R-1-B District. (See, revised Self-Certification form, Exhibit 28.) The caption has been changed accordingly.

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Department of Transportation ("DDOT") submitted a timely report of no objection to the application. (Ex. 35.)

Eleven letters in support from neighbors, including the adjacent property owners, were submitted to the record. (Ex. 31.)

A letter in opposition from the owners of 1612 Montague Street was submitted to the record. (Ex. 33.) Also, a neighbor, Brendan Horton, testified in opposition, citing concerns about the height of the proposed addition.

At the conclusion of the hearing, the Board requested the Applicant submit revised plans to reflect the design changes discussed at the hearing, showing the change in façade materials from stucco to brick and rendered in such a way that the true color is represented, and supplemental information, including photographs, to show the context of the building designs in the neighborhood. The Applicant submitted the requested materials, including two façade options, to the record at Exhibits 40-40B. The Applicant requested, and the Board granted, flexibility to choose between both options.

Special Exception 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 special exception under 11 DCMR §§ 223, 403.2, 405.8, and 2001.3. 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 averse 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, 403.2, 405.8, 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 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 requirements 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 the application is hereby **GRANTED, AND PURSUANT TO § 3125.8, SUBJECT TO THE APPROVED PLANS AT EXHIBITS 30 AND 40A. The Applicant shall have the flexibility to construct the project according to either Option 1 or Option 2, as shown in Exhibit 40A.**

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VOTE: **5-0-0** (Marnique Y. Heath, Anita Butani D'Souza, Frederick L. Hill, Jeffrey L. Hinkle, Michael G. Turnbull to APPROVE.)

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: May 2, 2016

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, 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

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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.