

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



**Application No. 19892 of Staci Walkes**, pursuant to 11 DCMR Subtitle X, Chapter 9, and under the Capitol Interest Zone criteria of Subtitle E § 5202, for special exceptions under the penthouse regulations of Subtitle C § 1500.4, and under Subtitle C § 1504 from the penthouse setback provisions of Subtitle C § 1502.1(c)(1)(A), to construct a penthouse stair enclosure addition to the existing, attached principal dwelling unit in the RF-3 Zone at premises 434 4th Street N.E. (Square 780, Lot 51).<sup>1</sup>

**HEARING DATE:** January 30, 2019

**DECISION DATE:** January 30, 2019

**SUMMARY ORDER**

**SELF-CERTIFICATION**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 7.) 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") 6C and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6C, which is automatically a party to this application. The ANC submitted a report recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on January 9, 2019, at which a quorum was present, the ANC voted 6-0-0 to support the application. (Exhibit 35.)

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<sup>1</sup> The caption has been revised to include reference to the Capitol Interest Zone criteria of Subtitle E § 5202, as required for special exceptions in the RF-3 zone and as indicated in Office of Planning's report. (Exhibit 36.) This reference was not included in the caption as originally advertised.

**BZA APPLICATION NO. 19892**  
**PAGE NO. 2**

The Office of Planning (“OP”) submitted a timely report, dated January 18, 2019, in support of the application. (Exhibit 36.) According to OP, the proposal was reviewed and approved by the Historic Preservation Review Board on September 28, 2017. The District Department of Transportation (“DDOT”) submitted a report, dated January 18, 2019, expressing no objection to the approval of the application. (Exhibit 37.)

Eight letters of support for the application were submitted to the record by neighbors (Exhibit 10.) A letter of support from the Capitol Hill Restoration Society was submitted to the record. (Exhibit 38.) Mr. and Mrs. Lonnie and Cynthia Zeigler of 426 4th Street, N.E. testified in opposition to the application.

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for a special exception under the penthouse regulations of Subtitle C § 1500.4, under Subtitle C § 1504 from the penthouse setback provisions of Subtitle C § 1502.1(c)(1)(A), and under Subtitle E § 5202 of the Capitol Interest Zone criteria, to construct a penthouse stair enclosure addition to the existing, attached principal dwelling unit in the RF-3 Zone. 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 OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2, Subtitle C §§ 1500.4, 1504, and 1502.1(c)(1)(A), and Subtitle E § 5202, 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 accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 4, AS REVISED IN PART BY THE ROOF LEVEL PLANS AT EXHIBIT 29.**

**VOTE:** 4-0-1 (Peter G. May, Carlton E. Hart, Frederick L. Hill, and Lorna L. John to APPROVE; Lesylleé M. White not participating).

**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:** February 5, 2019

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, 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 SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, 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

**BZA APPLICATION NO. 19892**  
**PAGE NO. 4**

PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.