

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18273 of 1328 Wisconsin Ave., LLC, et al, pursuant to 11 DCMR § 3103.2, for a variance from the rear yard requirements under § 774.1, to allow rear additions to existing buildings in the C-2-A District at premises 1328, 1330, 1332, and 1336 Wisconsin Avenue, N.W. (Square 1231, Lots 824 and 843).¹

HEARING DATE: November 15, 2011

DECISION DATE: November 15, 2011 (Bench Decision)

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 7.)

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”) 2E, 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 2E, which is automatically a party to this application. ANC 2E submitted a letter, dated September 2, 2011, in support of the application.² The ANC noted that at a duly noticed and regularly scheduled public meeting on August 29, 2011, with a quorum present, the ANC voted unanimously (6:0) to support the application. (Exhibit 30.)

¹ The Applicant revised its plans and consequently the relief requested was amended from that advertised by eliminating requests for variances from the floor area ratio requirements under § 771 and from the lot occupancy requirements under § 772. The remaining amended requests are for variances for rear yard requirements under § 774.1. These requests involve two tax lots, each with two buildings, and consequently the request for each tax lot is treated as if it were a separate application.

² The ANC voiced its support of the application as originally advertised which asked for more relief that was ultimately required.

441 4th Street, N.W., Suite 200/210-S, Washington, D.C. 20001

Telephone: (202) 727-6311

Facsimile: (202) 727-6072

E-Mail: dcoz@dc.gov

Web Site: www.dcoz.dc.gov

BZA APPLICATION NO. 18273
PAGE NO. 2

The Office of Planning (“OP”) submitted a report in support of the revised application. OP’s report recommended approval of variance relief from the rear yard requirement under § 774.1 for both Lots 843 and 824 in Square 1231.³ (Exhibit 33.)

The District Department of Transportation (“DDOT”) also provided a report dated October 25, 2011 in which DDOT indicated that there were no concerns about either the requested relief or the project. (Exhibit 32.)

The subject property is located in the Georgetown Historic District. A staff report from the Historic Preservation Review Board recommending support in concept was submitted for the record. (Exhibit 10.)

Letters of support for the application were received from Robert L. Clark, Georgetown Inn, 1310 Wisconsin Avenue (Exhibit 12); M. Heliais, 1338 Wisconsin Avenue; and the neighbors at 1326 Wisconsin Avenue. (Exhibit 11.)

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 of the rear yard requirements under § 774.1. 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 ANC and 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 a variance under § 774.1, 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 (pursuant to Exhibit 35, Revised Plans)**.

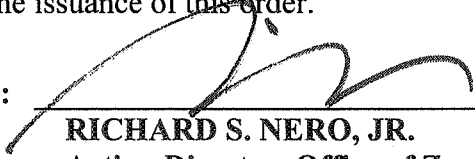
³ OP’s report indicated that for Lot 843 (1328, 1330 Wisconsin Avenue) relief from rear yard depth under § 774.1 is needed, since 15 feet are required while four feet, one inch are requested. Also, for Lot 824 (1332-36 Wisconsin Avenue) similar relief under § 774.1 is required, as 15 feet are required while 11 feet, 11 and one-half inches are requested. While in the body of its report OP mentions that relief from § 2001.3 is required for Lot 824, to permit the expansion of an existing structure not conforming to lot occupancy requirements, OP did not make that a recommendation of relief to be granted. (Exhibit 33.)

BZA APPLICATION NO. 18273
PAGE NO. 3

VOTE: **5-0-0** (Meridith H. Moldenhauer, Nicole C. Sorg, Lloyd L. Jordan, Jeffrey L. Hinkle, and Peter G. May, to approve.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
The majority of the Board members approved the issuance of this order.

ATTESTED BY:


RICHARD S. NERO, JR.
Acting Director, Office of Zoning

FINAL DATE OF ORDER: **NOV 28 2011**

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, 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

BZA APPLICATION NO. 18273
PAGE NO. 4

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.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



BZA APPLICATION NO. 18273

As Acting Director of the Office of Zoning, I hereby certify and attest that on **NOV 28 2011** a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, or delivered by electronic mail in the case of those ANCs and SMDs that have opted to receive notices thusly, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

Robert Bell
Robert Bell Architects
3218 O Street, N.W.
Washington, D.C. 20007

Chairperson
Advisory Neighborhood Commission 2E
3265 S Street, N.W.
Washington, D.C. 20007

Single Member District Commissioner 2E03
Advisory Neighborhood Commission 2E
3526 P Street, N.W.
Washington, D.C. 20007

Jack Evans, Councilmember
Ward Two
1350 Pennsylvania Avenue, N.W., Suite 106
Washington, D.C. 20004

Melinda Bolling, Esq.
General Counsel
Department of Consumer and Regulatory Affairs
1100 4th Street, S.W., 5th Floor
Washington, D.C. 20024

ATTESTED BY:


RICHARD S. NERO, JR.
Acting Director, Office of Zoning

441 4th Street, N.W., Suite 200/210-S, Washington, D.C. 20001

Telephone: (202) 727-6311

Facsimile: (202) 727-6072

E-Mail: dcosz@dc.gov

Web Site: www.dcoz.dc.gov