

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18326 of Valery and Atalia Portnoi, pursuant to 11 DCMR § 3104.1, for a special exception to allow a deck addition to an existing one-family row dwelling under § 223, not meeting the lot occupancy (§ 403) requirements in the R-5-B District at premises 2032 17th Street, N.W. (Square 150, Lot 158).¹

HEARING DATE: March 20, 2012

DECISION DATE: March 20, 2012 (Bench Decision)

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 the Applicant, Advisory Neighborhood Commission (“ANC”) 1C, 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 1C, which is automatically a party to this application. ANC 1C submitted a report, dated March 13, 2012, in support of the application. The ANC indicated that at a duly noticed and regularly scheduled public meeting on March 7, 2012, with a quorum of seven out of eight Commissioners present, the ANC voted (by voice vote) to support the application. The ANC noted that its support was limited to the application for a single porch, not two as originally requested. (Exhibit 30.)

The Office of Planning (“OP”) submitted a report, dated March 13, 2012, recommending approval of the application pursuant to § 223 from § 403.2 for the proposed rear deck. OP noted that in response to neighbor concerns, the Applicant eliminated the upper level of the originally

¹ The Applicant amended the application to request only one deck on the first floor instead of the originally submitted application for a two-story deck. The Board gave leave to the Applicant to file revised plans to reflect the amended application, including a dimensioned Plan view map. (Exhibits 33, 33A, and 33B.)

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BOARD OF ZONING ADJUSTMENT
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EXHIBIT NO. 34

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proposed two-level deck.² (Exhibit 33.) The District's Department of Transportation ("DDOT") submitted a report stating it had no objection to the application. (Exhibit 26.)

Party status requests in opposition to the application were filed by Bridget and Doug Hunnicutt, 2034 17th Street, N.W., (Exhibit 25) and by Susan Flinn and Brad Sweet, 2036 17th Street, N.W. (Exhibit 28.) Ms. Flinn and the Hunnicutts attended the hearing and, at the hearing, they withdrew their party requests in opposition in light of the scaling back of the application.

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 §§ 3104.1 and 223 from the strict application of the regulations pertaining to lot occupancy under § 403. 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 and 223, 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.

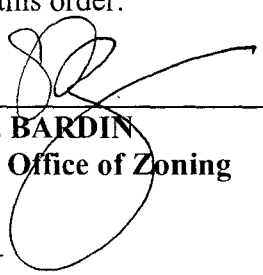
Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirements of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case. It is therefore **ORDERED** that the application is hereby **GRANTED, SUBJECT TO REVISED PLANS, EXHIBIT 33A.**

VOTE: **5-0-0** (Lloyd L. Jordan, Anthony J. Hood, Nicole C. Sorg, Rashida Y. V. MacMurray, and Jeffrey L. Hinkle 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:



SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: **APR 23 2012**

² OP stated that it believed that relief may also be required from § 2001.1, but later withdrew this comment. The subject property is in the Strivers' Section Historic District. OP indicated in its report that the Historic Preservation Office had reviewed the rear deck proposal and determined that it did not raise any concerns about negative visual impacts on the surrounding neighborhood. (Exhibit 27.)

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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 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.