

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18329 of Louis Bell and Florence Jaumotte, pursuant to 11 DCMR § 3103.2, for a variance to exceed the limitation on the number of stories under § 400.1, to allow the construction of a two-story addition on an existing detached dwelling in the R-1-B District at premises 1415 Otis Street, N.E. (Square 4004, Lot 25).

HEARING DATES: April 3, 2012 and May 22, 2012

DECISION DATE: May 22, 2012

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum, dated November 10, 2011, from the Zoning Administrator stating that a review of plans and the Applicant's application indicates that Board of Zoning Adjustment ("BZA" or "Board") approval is needed for a variance pursuant to 11 DCMR § 400.1 to permit a proposed two-story addition to an existing two-story single family dwelling "which will not be in compliance with the maximum allowed height in number of stories" in the R-1-B District. (Exhibit 4.)

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 the Applicant, Advisory Neighborhood Commission ("ANC") 5A, and to all owners of property within 200 feet of the property that is the subject of this application.¹

The subject property is located within the jurisdiction of ANC 5A, which is automatically a party to this application. The ANC submitted a report in support of the application. ANC 5A submitted a report, dated March 5, 2012, that indicated that at a duly scheduled and noticed public meeting, at which a quorum was present, the ANC voted to support the application by a vote of 9:0:0. (Exhibit 25.) ANC 5A presented testimony at the May 22, 2012 hearing indicating that it continued to support the project provided it remained as it was presented to the ANC in March. Also, a report dated May 18, 2012 was submitted by ANC 5C. The ANC 5C report indicated that at a public

¹ At the May 22, 2012 public hearing, the Board granted the Applicant's request to waive the affidavit of posting requirements.

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BOARD OF ZONING ADJUSTMENT
District of Columbia

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EXHIBIT NO. 37

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meeting for which notice was given and a quorum present, the ANC voted 12:0:0 in support of the application. (Exhibit 34.)

The Office of Planning ("OP") submitted a report indicating that it could not recommend approval of the application. OP stated that it did not believe the Applicant had sufficiently explained how the existing property characteristics presented a practical difficulty.² (Exhibit 27.) At the May 22nd hearing, OP testified that it was satisfied that the Applicant had shown the practical difficulty of building the project out horizontally. The District Department of Transportation ("DDOT") submitted a letter of no objection to the requested variance. (Exhibit 26.) Fourteen letters of support also were submitted to the record from neighbors. (Exhibit 8.)

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 limitation on the number of stories under § 400.1, to allow the construction of a two-story addition on an existing detached dwelling in the R-1-B. 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 § 400.1, 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 9 - Plans**).

VOTE: **5-0-0** (Marcie I. Cohen, Lloyd L. Jordan, Nicole C. Sorg, Rashida Y.V. MacMurray, and Jeffrey L. Hinkle, to Approve.)

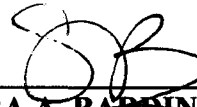
BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

² OP had suggested that the Applicant consider building out horizontally instead of vertically. The Applicant asked for a continuance of the hearing on April 3rd to allow it time to explore the viability of the options that OP had suggested. (Exhibit 29.) The Applicant submitted additional evidence of analyses of the property completed by a civil engineer (Exhibit 31) and the project builder (Exhibit 33) to demonstrate why it could not accept OP's suggestions and the practical difficulty that would be caused should the Applicant build the project out horizontally.

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ATTESTED BY:



SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: **MAY 29 2012**

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.