

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18450 of Karl and Julie Moeller, pursuant to 11 DCMR § 3104.1, for a special exception to allow a third story addition and roof deck to an existing one-family row dwelling under § 223, not meeting the court (§ 406) and nonconforming structure (§ 2001.3) requirements in the R-4 District at premises 426 11th Street, S.E. (Square 992, Lot 806).

HEARING DATE: November 27, 2012
DECISION DATE: November 27, 2012

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18450
EXHIBIT NO. 34

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") 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") 6B and to owners of property within 200 feet of the site as well as to the Office of Planning ("OP"). The site of this application is located within the jurisdiction of ANC 6B, which is automatically a party to this application. ANC 6B submitted a timely report in support of the application. The ANC's report indicated that at a regularly scheduled, properly noticed meeting held on November 13, 2012, with a quorum present, the ANC voted 10:0 in support of the application. (Exhibit 27.)

The Office of Planning ("OP") submitted a timely report dated November 20, 2012 in support of the application. (Exhibit 30.)

Nine letters of support were submitted to the record from nearby neighbors, including Judith A. Jacobs, 422 11th Street, S.E.; Sassan Gharai, 1024 Pennsylvania Avenue, S.E.; Joseph and Jennifer Howard, 400 11th Street, S.E.; Tamara Fucile and Todd Watterson, 414 11th Street, S.E.; Jeannette Windon, 1020 Pennsylvania Avenue, S.E. (#401); Stephen Sinclair, 1100 E Street, S.E.; Eric Petersen, 1109 D Street, S.E. (Exhibits 24, 25, and 26.) The Capitol Hill Restoration Society also submitted a letter of support for the record. (Exhibit 31.)

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

Telephone: (202) 727-6311

Facsimile: (202) 727-6072

E-Mail: dcz@dc.gov

Web Site: www.dcoz.dc.gov

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Vonda Harris, who resides next door at 424 11th Street, S.E., submitted an application for party status and letter in opposition to the application. In her letter, Ms. Harris indicated that she would not be at the hearing. (Exhibit 23.) She neither attended the hearing, nor sent a representative. Although the Board initially granted her party status, subsequently, the Board voted, 4:0:1, to rescind the grant of party status.¹

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exception relief under § 223 (§§ 406 and 2001.3) of the Zoning Regulations. No parties appeared at the public hearing in opposition to this 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 ANC and OP reports filed in this case, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 223 (§§ 406 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 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.

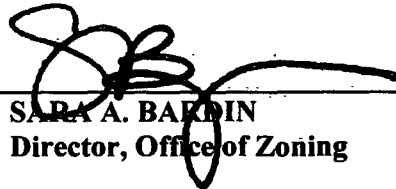
It is therefore **ORDERED** that the application is hereby **GRANTED, SUBJECT TO the plans at Exhibit 9.**

VOTE: 4-0-1 (Lloyd J. Jordan, Marcie I. Cohen, Nicole C. Sorg, and Jeffrey L. Hinkle to Approve; the third Mayoral appointee vacant.)

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

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

ATTESTED BY:


SARA A. BARRIN
Director, Office of Zoning

FINAL DATE OF ORDER: December 4, 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.

¹ In its deliberations the Board noted that it fully considered Ms. Harris' position as set forth in her letter of opposition.

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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.