

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



**Application No. 18455 of Lafon McCrae**, pursuant to 11 DCMR § 3103.2, for variances from the lot area and lot width requirements under subsection 401.3, to allow the construction of two semi-detached dwellings in the R-2 District at premises 4257 and 4259 Brooks Street, N.E. (Square 5087, Lots 930 and 937<sup>1</sup>).

**HEARING DATES:** December 11, 2012 and January 15, 2013

**DECISION DATE:** February 12, 2013

**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 4.)

The Board of Zoning Adjustment (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") 7D, and to owners of property within 200 feet of the site. The site is located within the jurisdiction of ANC 7D, which is automatically a party to this application. ANC 7D submitted a letter of support for the application. The ANC letter, which is dated January 8, 2013, indicated that at a duly noticed, regularly scheduled public meeting held on January 8, 2013 and at which a quorum of commissioners was present, the ANC voted to support the application.<sup>2</sup> (Exhibit 32.) The single member district member, ANC 7D06, also submitted a letter of support, dated December 30, 2012. (Exhibit 31.)

The Office of Planning ("OP") submitted a timely report in support of the application. (Exhibit 25.)

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<sup>1</sup> The Office of Planning raised two issues in its report, one regarding ownership of the two lots and the other whether zoning relief was required. In response to the Board's request for clarification of these two issues, at the public hearing on January 15, 2013, the Office of Planning testified that the two lots are under single ownership (of the Applicant) and that the requested zoning relief was required. (See, Exhibit 28.)

<sup>2</sup> The ANC letter also stated that when the Applicant's architect presented the project at the ANC meeting, he assured the ANC that the windows facing east and west would be offset to provide privacy to the current property owners and that the owner would keep the property properly maintained and build a taller privacy fence around the property to keep people from illegally dumping on it. (Exhibit 32.)

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**BOARD OF ZONING ADJUSTMENT**  
District of Columbia

CASE NO.

EXHIBIT NO.

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The District Department of Transportation ("DDOT") submitted a report recommending "no objection." (Exhibit 24.)

Letters of support for the application were submitted by neighbors, Welford and Belinda Johnson, 4261 Brooks Street, N.E., and Karen Coulter, 4255 Brooks Street, N.E. (Exhibit 21.)

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 lot area and lot width requirements under § 401.3. 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 filed in this case, the Board concludes that in seeking the variance relief that the Applicant has met the burden of proving under 11 DCMR § 3103.2, 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, SUBJECT TO THE PLANS AT EXHIBIT 26.**

**VOTE:**        **3-0-2** (Lloyd L. Jordan, Nicole C. Sorg, and Jeffrey L. Hinkle, to        Approve; no Zoning Commission member participating, and 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 order.

**ATTESTED BY:**

  
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**SARA A. BARDIN**  
Director, Office of Zoning

**FINAL DATE OF ORDER:** February 19, 2013

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.