

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18495 of Jose Contreras, pursuant to 11 DCMR § 3103.2, for a variance from the use provisions to convert a one-family dwelling into a flat (two-family dwelling) under § 320.3, in the R-3 District at premises 448 Emerson Street, N.W. (Square 3251, Lot 213).

HEARING DATE: March 12, 2013

DECISION DATE: March 12, 2013

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum, dated October 2, 2012, from the Zoning Administrator, which stated that Board of Zoning Adjustment (“Board” or “BZA”) approval is required for a “[v]ariance pursuant of § 320.3 to convert an existing nonconforming SFD row dwelling to a 2 unit flat in the R-3 residential zone district.” (Exhibit 5.)

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”) 4D and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 4D, which is automatically a party to this application. ANC 4D did not file a report. At the hearing, Tina Thompson, ANC Commissioner emeritus, spoke on behalf of the current single member district ANC Commissioner, Lisa Colbert, in support of the application. Ms. Thompson indicated that she was testifying on behalf of Commissioner Colbert and that she had surveyed the Applicant’s neighbors, none of whom had any objections to the application.

The Office of Planning (“OP”) submitted a timely report recommending approval of the application. (Exhibit 24.) The District Department of Transportation (“DDOT”) also submitted a letter of no objection dated January 22, 2013. (Exhibit 25.)

A party status request in support of the application from Leroy Powell, Sr. (Exhibit 23) was determined to be moot, as Mr. Powell was participating in the hearing as the Applicant’s representative and interpreter.

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

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18495

EXHIBIT NO. 31

Board of Zoning Adjustment
District of Columbia
CASE NO.18495
EXHIBIT NO.31

BZA APPLICATION NO. 18495
PAGE NO. 2

The Applicant's adjacent neighbor, Maria Webb Gomes, 446 Emerson Street, testified in support 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 under § 3103.2, to establish the case for a use variance from the requirements under § 320.3, to allow the conversion of a one-family dwelling into a flat (two-family dwelling). 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 report filed in this case, the Board concludes 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 an undue hardship 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 requirement 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 this application be **GRANTED**.

VOTE: **5-0-0** (Lloyd J. Jordan, Nicole C. Sorg, S. Kathryn Allen, Jeffrey L. Hinkle, and Anthony J. Hood to APPROVE.)

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

ATTESTED BY:



SARA A. BARNIN
Director, Office of Zoning

FINAL DATE OF ORDER: March 14, 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 SIX MONTHS AFTER IT BECOMES EFFECTIVE UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD.

BZA APPLICATION NO. 18495
PAGE NO. 3

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.