

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



**Application No. 18527 of Jill and Blaise Marion**, pursuant to 11 DCMR §§ 3104.1 and 3103.2, for a special exception under § 2516.1, a variance from the nonconforming structure provisions under § 2001.3, a variance from the rear yard requirements under § 404, and a variance from the off-street parking requirements under § 2101.1, to permit two principal buildings on a single subdivided lot in the R-4 District at premises 1116 K Street, N.E. (Square 980-N, Lot 7).

**HEARING DATE:** April 2, 2013

**DECISION DATE:** April 23, 2013

**SUMMARY ORDER**

**REVIEW BY THE ZONING ADMINISTRATOR**

The application was accompanied by a memorandum, dated December 10, 2010, from the Zoning Administrator, which stated that Board of Zoning Adjustment ("Board" or "BZA") approval is needed for variances from the requirements of §§ 2001.3, 404.1, and 2101.1 and a special exception under § 2516.1, pursuant to 11 DCMR §§ 3104.1 and 3103.2. (Exhibit 5.)

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 the Applicant, Advisory Neighborhood Commission ("ANC") 6A, and to all owners of property within 200 feet of the property that is the subject to this application. The subject property is located within the jurisdiction of ANC 6A, which is automatically a party to this application. ANC 6A submitted a letter in support of the application, dated March 20, 2013, which indicated that at a duly noticed, regularly scheduled meeting on March 14, 2013, with a quorum present, the ANC voted 7:0:0 to approve the application and the requested relief. (Exhibit 29.)

The Office of Planning ("OP") submitted a timely report dated March 14, 2013, recommending approval of the application except for the relief from the nonconforming structure requirements under § 2001.3 for the proposed third floor. (Exhibit 27.)

The District Department of Transportation submitted a letter of "no objection" for the record. (Exhibit 22.)

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**BOARD OF ZONING ADJUSTMENT**  
District of Columbia  
CASE NO. 18527  
EXHIBIT NO. 36

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At its public hearing on April 2, 2013, the Board completed public testimony, closed the record for all but the material it requested, and scheduled a public meeting for its deliberations and decision on April 23, 2013. The Board requested the Applicant provide additional documentation of the design context of the existing houses on Florida Avenue relative to the proposed roof design and to provide another narrative explaining how the application meets the burden of proof for the variance relief from nonconforming structures under § 2001.3. The Board also allowed responses to the Applicant's supplemental filings by OP and ANC 6A. The Applicant filed a supplemental statement with the requested information including an additional burden of proof on April 12, 2013. (Exhibit 33.) OP filed its response to the additional information on April 18, 2013. (Exhibit 34.)

Three letters of support by neighbors were submitted for the record by Alvin and Angelia Rice, 1100 K Street, N.E.; Shyneisa Cooper, 1120 K Street, N.E.; and Eugene Lyons, 1114 K Street, N.E. (Exhibit 24.) A petition for the restoration of 1109 Florida Avenue was submitted for the record with 30 signatures from neighbors. (Exhibit 8.) The Capitol Hill Restoration Society submitted a letter of support with the proviso the order specifically state that neither building may have another residential unit. (Exhibit 30.)

**Variance Relief**

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 variances from the nonconforming structure provisions under § 2001.3, the rear yard requirements under § 404, and the off-street parking requirements under § 2101.1. 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 ANC and OP reports 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 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.

**Special Exception Relief**

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 from the strict application of the regulations pertaining to building lot control in a Residence District under § 2516.1. 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 2516.1, 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.

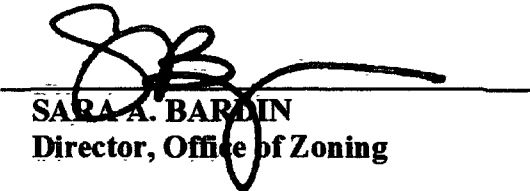
It is therefore **ORDERED** that the application is hereby **GRANTED, SUBJECT TO THE PLANS AT EXHIBIT 9.**

**VOTE: 5-0-0** (Lloyd J. Jordan, Nicole C. Sorg, S. Kathryn Allen, Jeffrey L. Hinkle, and Marcie I. Cohen (by absentee ballot) 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. BARDIN**  
**Director, Office of Zoning**

**FINAL DATE OF ORDER:** April 25, 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.