

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18837 of Karl B. and Julie C. Moeller, pursuant to 11 DCMR § 3103.2, for variances from § 2507.1, for the conversion, alteration, restoration, repair and use of a one-story structure for human habitation as a flat (two-family dwelling) on an alley lot and for alley access to the street which is not at least 30 feet in width under § 2507.2, in the R-4 District at premises 429 12th Street, S.E. (rear) (Square 992, Lot 818).

HEARING DATES: October 21, 2014 and December 9, 2014

DECISION DATE: December 9, 2014

SUMMARY ORDER

SELF-CERTIFIED¹

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (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 the Applicant, Advisory Neighborhood Commission (“ANC”) 6B, and to all owners of property within 200 feet of the property that is the subject of this application. The subject property is located within the jurisdiction of ANC 6B, which is automatically a party to this application. The ANC submitted a timely report in support of the application. The ANC’s report indicated that at a regularly scheduled, duly noticed meeting held on October 14, 2014, with a quorum present, the ANC met and considered the application and voted 5-3-0 in support of the Applicant’s request for variance relief from §2507.1 and 8-0-0 in support of the Applicant’s request for variance relief from § 2507.2. (Exhibit 37.)

The Office of Planning (“OP”) submitted two timely reports. In the original report, OP recommended denial of the application (Exhibit 27), but in its subsequent, supplemental report and in its testimony at the public hearing, OP revised its earlier opinion after meeting with the

¹ The application was self-certified, but the Applicant also went to the Zoning Administrator to review the relief being requested. The Zoning Administrator in a letter dated December 2, 2014, agreed with the Applicant’s request for relief as originally advertised. (Exhibit 45.)

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Applicant and reviewing the additional information the Applicant submitted regarding data about expenses associated with different uses on the subject property that was requested by the Board and indicated it was not opposed to the variances requested in the application. (Exhibit 43.) The District's Department of Transportation ("DDOT") submitted a timely report indicating it had no objection to the application. (Exhibit 30.)

Letters and a petition of support signed by 40 neighbors were submitted for the record. (Exhibits 26G and 34.) In addition, a letter from the Capitol Hill Restoration Society in support of the project was submitted for the record. (Exhibit 26H.)

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 variances under § 3103.2 from the strict application of the alley lot (§ 2507.1) and alley access (§ 2507.2) requirements for the conversion, alteration, restoration, repair and use of a one-story structure for human habitation as a flat (two-family dwelling) on an alley lot (§ 2507.1), and for alley access to the street which is not at least 30 feet in width (§ 2507.2) in the R-4 District. 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 proof pursuant to 11 DCMR § 3103.2 for variances under §§ 2507.1 and 2507.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty or 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.

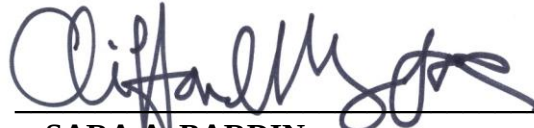
Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirements of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that the application is hereby **GRANTED SUBJECT TO THE REVISED APPROVED PLANS AT EXHIBITS 26F1 AND 26F2.**

VOTE: **4-1-0** (Marcie I. Cohen, Marnique Y. Heath, S. Kathryn Allen, and Jeffrey L. Hinkle to APPROVE; Lloyd L. Jordan, opposed.)

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: December 16, 2014

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 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO § 3129.9, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL TOLL OR 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.