

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18868 of Eli and Margaret Joseph, as amended¹, pursuant to 11 DCMR § 3104.1, for a special exception under § 223, to allow an addition to a one-family detached dwelling, that extends a nonconforming structure under § 2001.3, in the WH/R-1-B District at premises 4547 Lowell Street, N.W. (Square 1605, Lot 50).

HEARING DATE: December 2, 2014
DECISION DATE: December 2, 2014

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 6, 7, and 21.)

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”) 3D and to owners of property within 200 feet of the site. The application as originally filed was a request for special exception relief pursuant to 11 DCMR § 3104.1, to allow an addition to a single-family detached dwelling not meeting the front yard setback requirements of the Wesley Heights Overlay/R-1-B District under § 1543.4. As a proposal for an addition to a single-family detached dwelling, it is eligible for special exception relief under § 223. However, § 1543.4 is not an enumerated subsection under § 223. Thus, the case was advertised for variance relief under § 1543.4. At the public hearing, the Applicant amended the application to request the § 223 special exception relief for an enlargement to a nonconforming structure (§ 2001.3).

The site of this application is located within the jurisdiction of ANC 3D, which is automatically a

¹ The application initially sought special exception relief pursuant to § 223, not meeting the front yard requirements of § 1543.4. (Exhibit 1.) As § 1543.4 is not one of the subsections listed in § 223 from which relief may be granted, the case was advertised for an area variance not meeting the front yard setback requirements under § 1543.4, and analyzed as an area variance, both by the Applicant (Exhibit 32) and by the Office of Planning (Exhibit 34). At the public hearing, however, the Applicant amended the relief being sought to a special exception under § 223, to allow an addition to a one-family detached dwelling, that extends a nonconforming structure under § 2001.3, and that is the relief that the Board granted. The caption has been amended accordingly.

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party to this application. ANC 3D submitted a timely report in support of the application. The ANC's report indicated that at a regularly scheduled meeting held on October 1, 2014, with a quorum present, the ANC voted (7:0) to support the application. (Exhibit 30.)

The Office of Planning ("OP") submitted a report recommending approval of a variance from § 1543.4, and noted that the property is nonconforming as to minimum lot area and side yard. (Exhibit 34.) At the public hearing, OP expressed support for the amended special exception relief. The District Department of Transportation filed a report expressing no objection to the application. (Exhibit 31.) One letter from a neighbor in support of the application was filed in the record. (Exhibit 28.)

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 a special exception under § 223. 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 OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 223, 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.

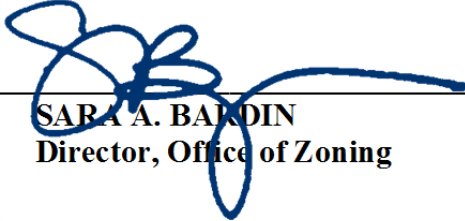
Pursuant to 11 DCMR § 3101.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that the application is hereby **GRANTED, SUBJECT TO THE APPROVED ARCHITECTURAL PLANS AT EXHIBIT 11.**

VOTE: **4-0-1** (Lloyd J. Jordan, Peter G. May, S. Kathryn Allen, and Jeffrey L. Hinkle to Approve; Marnique Y. Heath not present, not voting.)

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 10, 2014

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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.