

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18914 of John Peters, as amended, pursuant to 11 DCMR §§ 3103.2 and 3104.1, for variances from the alley setback requirements under § 2300.4, and the accessory building height requirements under § 2500.4, and a special exception under § 223, not meeting the lot occupancy requirements under § 403.2, to construct a second story to an existing garage in the R-4 District at premises 240 9th Street, N.E. (Square 917, Lot 68).¹

HEARING DATE: February 3, 2015

DECISION DATE: February 3, 2015

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 6 and 25.)

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") 6A and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6A, which is automatically a party to this application. ANC 6A filed a report in support of the application. In its report the ANC indicated that at a regularly scheduled and properly noticed public meeting, at which a quorum was present, the ANC voted 8-0 to support the application. (Exhibit 31.)

The Office of Planning ("OP") submitted a timely report indicating that while it supported the request for area variance relief under § 2300.2 and special exception relief under § 223, not meeting lot occupancy under § 403, OP could not recommend approval of variance relief under §

¹ The Applicant amended the application and clarified at the public hearing that what was being requested was variance relief from §§ 2500.4 and 2300.4 and special exception relief from § 223 and § 403.2. (Exhibit 25.) The caption has been changed accordingly.

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

BZA APPLICATION NO. 18914
PAGE NO. 2

2500.4.² (Exhibit 32.) The District Department of Transportation ("DDOT") submitted a timely report of "no objection" to the application. (Exhibit 30.)

Letters in support were submitted to the record from neighbors. (Exhibits 28 and 29.) A letter in opposition was submitted to the record from the Capitol Hill Restoration Society. (Exhibit 38.)

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 to establish the case for a variance under § 3103.2 from the alley setback requirements under § 2300.4 and the accessory building height requirements under § 2500.4, to construct a second story to an existing garage 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 §§ 2300.4 and 2500.4, 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.

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 and 223, not meeting lot occupancy under § 403.2, to construct a second story to an existing garage 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.

The Board concludes that the Applicant has met the burden of proof for special exception relief, pursuant to 11 DCMR §§ 3104.1, 223, and 403.2, and that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The

² In response to the Board's questions at the public hearing as to what the Applicant had to counter OP's lack of support of the variance under § 2500.4, the Applicant provided testimony regarding the practical difficulty with navigating the existing turning radius into the garage (requiring a three-point turn because of the lack of a wider turning radius) because of the location of the utility pole extending into the alley and therefore significantly reducing available space for other uses. OP indicated that it did not have the benefit of the testimony when it prepared its report.

BZA APPLICATION NO. 18914
PAGE NO. 3

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.

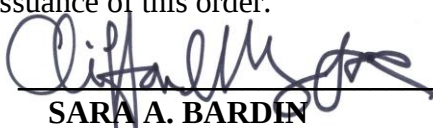
It is therefore **ORDERED** that the application is hereby **GRANTED SUBJECT TO THE APPROVED REVISED PLANS AT EXHIBIT 27.**

VOTE: **5-0-0** (Lloyd L. Jordan, Marnique Y. Heath, Jeffrey L. Hinkle, S. Kathryn Allen, and Marie I. Cohen 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. BARDEN

Director, Office of Zoning

FINAL DATE OF ORDER: February 6, 2015

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.

BZA APPLICATION NO. 18914
PAGE NO. 4

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.