

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18935 of Sonja Sweek, as amended¹, pursuant to 11 DCMR § 3104.1, for a special exception under § 223, not meeting the lot occupancy requirements under § 403.2, to allow the construction of a two-story garage in the R-4 District, at premises 515 7th Street, S.E. (Square 877, Lot 853).

HEARING DATES: March 10, 2015 and April 28, 2015
DECISION DATE: April 28, 2015

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum, dated October 22, 2014, from the Zoning Administrator, certifying the relief required for the original application. (Exhibit 7.) The Applicant amended the application verbally at the public hearing on April 28, 2015, to request a special exception under § 223, not meeting the lot occupancy requirements under § 403.2, to allow the construction of a two-story garage in the R-4 District and that is the relief that the Board granted.

¹ The Board accepted the Applicant's verbal amendment of the application at the public hearing on April 28, 2015, to request a special exception under § 223, not meeting the lot occupancy requirements under § 403.2, to allow the construction of a two-story garage in the R-4 District. Thus, the Applicant requested and was granted permission to build a one story garage with mezzanine that increased the building's footprint on her lot to about 67.6% instead of the allowed 60% in an R-4 zone. She requested the application be heard as a Special Exception, rather than as variance relief, as in the original application, which allows coverage to 70%. The original application had requested variances from lot occupancy (§ 403.2) and height of accessory structures (§ 2500.4) and that was heard at the public hearing on March 10, 2015. The Office of Planning's ("OP") report under Exhibit 25 recommended denial of the original variance application. However, OP noted during its testimony on March 10, 2015, that it would support the application if the Applicant were to propose an addition allowable by special exception. Based on this recommendation, the Applicant revised its plans as shown in Exhibit 37 and amended the application, as described. However, those revised plans incorrectly reflect the height, as noted by the Board during the hearing. At the Board's request, the Applicant submitted another set of revised plans that accurately reflect the height and relief. (Exhibit 39.)

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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") 6B and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6B, which is automatically a party to this application. The ANC submitted a written report in support of the application, dated February 12, 2015, indicating that at a regularly scheduled and duly noticed public meeting held on February 10, 2015, the ANC, with a quorum present, voted 7-1-2 to support the application.

The Office of Planning ("OP") submitted a timely report on the original application stating that it could not support recommending approval of the application for variances from lot occupancy (§ 403.2) and height (§ 2500.4) (Exhibit 25) and testified in opposition to that original application at the March 10, 2015 hearing. However, OP noted during its testimony on March 10, 2015, that it would support the application if the Applicant were to propose an addition allowable by special exception. Based on this recommendation, the Applicant amended the relief requested and revised the plans as shown in Exhibit 37 in time for the April 28, 2015 hearing. However, those plans incorrectly reflect the height, as noted by the Board during the hearing. At the Board's request, the Applicant submitted another set of revised plans that accurately reflect the height and relief. (Exhibit 39.)

The District Department of Transportation ("DDOT") submitted a timely report of no objection. (Exhibit 24.)

Letters in opposition were submitted to the record from the Capitol Hill Restoration Society and a neighbor. (Exhibits 33 and 32.)

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 § 223, not meeting the lot occupancy requirements under § 403.2, to allow the construction of a two-story garage in the R-4 District. The only parties to the case were the Applicant and the ANC, which was in support of the application. 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 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 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 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.

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It is therefore **ORDERED THAT THIS APPLICATION IS HEREBY GRANTED SUBJECT TO THE REVISED PLANS AT EXHIBIT 39 OF THE RECORD.**

VOTE: **4-0-1** (Lloyd J. Jordan, Peter G. May, Marnique Y. Heath, and Jeffrey L. Hinkle to APPROVE; one seat vacant.)

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: May 14, 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.

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.