

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



**Application No. 18951 of Matthew Seligman**, as amended<sup>1</sup>, pursuant to 11 DCMR § 3103.2, for variances from the lot occupancy requirements under § 403.2, the rear yard setback requirements under § 404.1, and the nonconforming structure requirements under § 2001.3, to allow the construction of a deck addition to an existing flat in the DC/R-4 District at premises 1534 Swann Street N.W. (Square 191, Lot 92).

**HEARING DATE:** March 31, 2015

**DECISION DATE:** March 31, 2015

**SUMMARY ORDER**

**REVIEW BY THE ZONING ADMINISTRATOR**

The application was accompanied by a memorandum from the Zoning Administrator certifying the required relief. (Exhibits 12 and 35.)

The Board of Zoning Adjustment ("Board" or "BZA") 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") 2B and to owners of property located within 200 feet of the site.<sup>2</sup> The site of this application is located within the jurisdiction of ANC 2B, which is automatically a party to this application. The ANC submitted a report in support of the application, dated March 23, 2015, indicating that at a duly noticed and scheduled public meeting on March 11, 2015, at which a quorum was in attendance, the ANC voted unanimously (9-0-0) in support of the application for variance relief. (Exhibit 32.)

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<sup>1</sup> The Applicant amended the application by changing the original self-certified (Exhibit 4) request for special exception relief under § 223 to one for variances from §§ 403.2 (lot occupancy), 404.1 (rear yard), and 2001.3 (nonconforming structure) after the Zoning Administrator indicated that variance relief was required. (Exhibit 12.)

<sup>2</sup> The Applicant testified at the hearing that notice of the amended application for variance relief was provided through posting of the property. An affidavit of posting was submitted to the record. (Exhibits 25 and 28.)

**BZA APPLICATION NO. 18951**  
**PAGE NO. 2**

OP submitted a timely report on March 24, 2015, recommending approval of variances from §§ 403.2, 404.1, and 2001.3 to allow the construction of a deck addition to an existing flat (Exhibit 33) and testified in support of the application, as amended, at the hearing. The District Department of Transportation (“DDOT”) submitted a timely report indicating that it had no objection to the application. (Exhibit 30.)

Letters in support of the application from five neighbors were submitted to the record. (Exhibit 26.) Two letters in opposition, one from a neighboring condominium resident and the other from the Board of the condominium, were submitted to the record. (Exhibits 34 and 36.) During the hearing, there was testimony in opposition to the application from another resident of the neighboring condominium, whose concerns that were raised were subsequently addressed by the Applicant at the hearing.

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 pursuant to § 3103.2 for area variances from 11 DCMR §§ 403.2, 404.1, and 2001.3. 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 in seeking variances from 11 DCMR §§ 403.2, 404.1, and 2001.3, the Applicant has met the burden of proof 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 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 requirement of 11 DCMR § 3125.5, 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 PLANS AT EXHIBIT 6.**

**VOTE:**           **4-0-1** (Lloyd L. Jordan, Marnique Y. Heath, Jeffrey L. Hinkle, and Anthony J. Hood to APPROVE; one Board 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:** April 2, 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.