

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18960 of Mark and Matthew Medvene, pursuant to 11 DCMR § 3104.1 for a special exception under § 223, not meeting the lot occupancy requirements under § 403, the side yard requirements under § 405, the court width requirements under § 406, and the nonconforming structure requirements under § 2001.3, to allow the construction of a third-story addition to an existing flat in the R-4 District at premises 2807 Sherman Avenue, N.W. (Square 2886, Lot 337).

HEARING DATE: April 21, 2015

DECISION DATE: April 7, 2015¹ and April 21, 2015

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 32.)²

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”) 1B and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1B, which is automatically a party to this application. ANC 1B submitted a report noting that at a properly noticed public meeting on March 10, 2015, with a quorum present, it voted 10-0-0 in support of the application. (Exhibit 37.) The Office of Planning (“OP”) also submitted a timely report and testified at the hearing in support of the application. (Exhibit 35.) The District Department of Transportation submitted a timely report of no objection to the application. (Exhibit 34.)

¹ Due to the filing of two requests for party status in opposition to the application, the application was removed from the Expedited Review Calendar of the April 7, 2015 public meeting and scheduled for a hearing on April 21, 2015.

² Although the Applicants filed a memorandum from the Zoning Administrator which cited special exception relief as indicated in the caption above as well as variance relief from § 400.1 related to maximum height/stories, (Exhibit 9), the Applicants decided to self-certify for the special exception relief under § 223 only. The Applicants maintain that portions of the construction exceeding the allowable height have been removed and that height variance relief is not needed. (See Applicant’s Prehearing Statement, Exhibit 29, and Self-Certification form, Exhibit 32.)

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Party status applications were filed by Jeremy Hessler and Justine Sarver; however, party status was denied because of the party status applicants' failure to appear on either of two occasions when the case was called at the hearing. (Exhibits 24 and 25.) One of the party status applicants filed written testimony in opposition to the application (Exhibit 38) and each of them filed an opposition letter into the record. (Exhibits 26 and 27.) A letter of support was filed by an adjacent neighbor. (Exhibit 28.)

As directed by 11 DCMR § 3119.2, the Board has required the Applicants to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exception relief under §§ 223, 403, 405, 406, and 2001.3. The only parties to the application were the Applicants and the ANC which expressed support for the application. 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 Applicants have met the burden of proof, pursuant to 11 DCMR §§ 3104.1, 223, 403, 405, 406, and 2001.3, that the requested relief can be granted, 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.

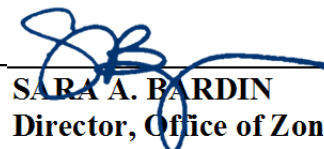
It is therefore **ORDERED THAT THIS APPLICATION IS HEREBY GRANTED, SUBJECT TO THE APPROVED REVISED PLANS IN THE RECORD AT EXHIBITS 30 AND 31.**

VOTE: 3-0-2 (Lloyd J. Jordan, Jeffrey L. Hinkle, and Marcie I. Cohen to Approve;
Marnique Y. Heath not present, 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

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FINAL DATE OF ORDER: May 1, 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 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.