

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19029 of Eric Piersma, as amended¹, pursuant to 11 DCMR § 3103.2, for a variance from the minimum lot dimensions requirements under § 401.11, to allow the renovation of a flat into a three-unit apartment house in the R-4 District at premises 1338 Fairmont Street N.W. (Square 2861, Lot 35).

HEARING DATES: June 30, 2015, July 7, 2015, September 15, 2015, and October 6, 2015²

DECISION DATE: October 6, 2015

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by two memoranda, dated March 25, 2015 and May 15, 2015, from the Zoning Administrator, both of which stated that Board of Zoning Adjustment (“Board” or “BZA”) approval is required for the following:

“Variance from § 401.11 to increase the number of dwelling units without providing the minimum lot area required for the units (§ 3103.2).”
(Exhibits 6 and 23.)

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”) 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 1A filed a letter report, dated June 24, 2015, which indicated that at a properly noticed, regularly scheduled public meeting held on June 4, 2015, with a quorum of Commissioners present, the ANC voted 9:1:1 to support the application and that there was no

¹ The Applicant amended the application at the public hearing to propose a three-unit apartment house instead of four-unit one. The Board approved the amended application, giving leave for the Applicant to submit revised plans showing a three-unit apartment house. (Exhibit 46.)

² This case was postponed from June 30, heard on July 7, and again postponed from September 15, and continued to allow the Applicant to provide financial information, and decided on October 6.

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opposition to the application. (Exhibits 30 and 34.) Also, at the July 7, 2015 hearing, Single Member District ANC 1B08 testified in support of the original application.

The Office of Planning ("OP") submitted a timely report on June 30, 2015, indicating that it could not support the Board granting the original application for four units. (Exhibit 31.) The Applicant submitted a request under Exhibit 44 for the Board to bifurcate its motion to consider separately: (1) the original four-unit proposal, and (2) approval of adding a third unit only. After hearing the comments of the Board, the Applicant withdrew its request to bifurcate the motion, and indicated that, instead, it wished for the Board to consider only the alternative plan for three units. Although the OP recommended denial of the application for four units, at the hearing on October 6, 2015, OP testified that it would not oppose the Applicant's alternative proposal for a three-unit design.

By its letter, dated June 19, 2015, the District Department of Transportation ("DDOT") submitted a report of "no objection" to the application. (Exhibit 26.)

Five letters in support from neighbors were submitted under Exhibit 22. Another letter of support was submitted by Edward Bruske who described his experience in the business of apartment rentals as well as his support for the application. (Exhibit 43.)

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 variances from the strict requirements of the minimum lot dimensions requirements under § 401.11, to allow the renovation of a flat into a three-unit apartment house in the R-4 District. The only parties to the case were the Applicant and the ANC. 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 proving 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 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.

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 this application be **GRANTED SUBJECT TO THE APPROVED REVISED PLANS AT EXHIBIT 46**.

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this summary order.

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VOTE: **3-0-2** (Marnique Y. Heath, Frederick L. Hill, and Marcie I. Cohen to Approve; Jeffrey L. Hinkle, not participating or voting; the third Mayoral appointee 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: November 10, 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

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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.