

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19035 of 1325 D Street, LLC, pursuant to 11 DCMR §§ 3103.2 and 3104.1 for variances from the lot occupancy requirements under § 403.2, the lot area requirements under § 2604.3, and the limitation on the number of principal buildings allowed on a single record lot under § 3202.3, and a special exception from the lot width requirements under § 2604.3, to construct 22 one-family attached and semi-detached dwellings and six flats in the R-4 District at premises 1325 D Street S.E. (Square 1042, Lots 827).¹

HEARING DATE: July 21, 2015

DECISION DATE: July 21, 2015

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 5 and 6.)

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") 6B, and to owners of property 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. ANC 6B submitted a letter dated June 9, 2015, in support of the application. (Exhibit 26.) The ANC's letter noted that, at a properly noticed meeting held on June 9, 2015, with a quorum present, the ANC voted 9-0 in support of the application.

The Office of Planning ("OP") submitted a timely report on July 14, 2015, recommending approval of the application. (Exhibit 34.) OP also testified in support of the application at the hearing. The District Department of Transportation ("DDOT") submitted a timely report on July

¹ By letter dated July 9, 2015 (Exhibits 32 and 33), the Applicant submitted a revised site plan and clarified the extent of the relief requested, which was reduced from that originally set forth in the application dated April 28, 2015. (Exhibits 1-14.) The letter also clarified that the requested variances from the lot occupancy requirements under § 403.2 and the lot area requirements under § 2604.3 apply to Lot 9 and that the requested variance from the limitation on the number of principal buildings allowed on a single record lot under § 3202.3 and a special exception from the lot width requirements under § 2604.3 apply to Lots 10-20 of the proposed project.

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14, 2015, indicating that it had no objection to the requested variances and special exception. (Exhibit 35.)

The adjacent neighbors of the property submitted a letter in support. (Exhibit 25.) The Capitol Hill Restoration Society (“CHRS”) submitted a letter, indicating that it voted to oppose the variance for lot area, but voted in support of the special exception and other variances. (Exhibit 28.) CHRS submitted a second letter to note that the plan revisions did not impact their decision to oppose the lot area variance. (Exhibit 37.)

At the Board’s public hearing on July 21, 2015, Mary Case, a nearby resident, testified in opposition, citing concerns about the removal of a willow oak on the property.

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 pursuant to 11 DCMR § 3104.1, for a special exception from 11 DCMR § 2604.3. 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 report and ANC letter filed in this case, the Board concludes that the Applicant has met the burden of proof pursuant to 11 DCMR §§ 3104.1 and 2604.3, 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.

Variance Relief

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case, pursuant to 11 DCMR § 3103.2, for variances from the lot occupancy requirements under § 403.2, the lot area requirements under § 2604.3, and the limitation on the number of principal buildings allowed on a single record lot under § 3202.3. 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 report and ANC letter filed in this case, the Board concludes that in seeking variances from 11 DCMR

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§§ 403.2, 2604.3, and 3202.3, 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 causing 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.

It is therefore **ORDERED** that this application is hereby **GRANTED, SUBJECT TO THE APPROVED PLANS AT EXHIBITS 31D1, 31D2, and 31D3, AND AS CLARIFIED IN EXHIBITS 32 and 33.**

VOTE: 4-0-1 (Lloyd J. Jordan, Jeffrey L. Hinkle, Marnique Y. Heath, and Robert E. Miller to APPROVE; Frederick L. Hill not present, not participating.)

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

The majority of the Board members approved the issuance of this order.

ATTESTED BY: _____


SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: July 30, 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

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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.