

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19044 of Gerald West, as amended¹, pursuant to 11 DCMR § 3104.1 for a special exception under § 223, not meeting the lot occupancy requirements under § 403.2, the open court requirements under § 406.1, and the nonconforming structure requirements under § 2001.3, to construct a two-story rear addition, one-story side addition, and a basement entry in the DC/R-4 District at premises 1508 Caroline Street N.W. (Square 190, Lot 59).

HEARING DATE: September 22, 2015²
DECISION DATE: September 22, 2015

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 6 (original) and 36 (revised).)

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. 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, dated September 11, 2015, indicating that at a duly noticed and regularly scheduled public meeting on September 9, 2015, at which a quorum was in attendance, the ANC voted 6-0-0 in support of the application based on the revised plans and with conditions. (Exhibit 34.)

¹ The Applicant amended the application by removing a request for side yard relief under § 405.8 and including one for nonconforming structure relief under § 2001.3. The Applicant submitted a revised self-certification form with the amended relief being requested together with a sun study and revised plans. (Exhibits 36-39.) The caption has been revised accordingly.

² Pursuant to 11 DCMR § 3118, the Applicant initially sought to have the application placed on an expedited review calendar. (Exhibit 2.) A timely Request for Party Status in Opposition was submitted (Exhibits 28-29) to the record with a request to hold a hearing on the application. (Exhibit 25.) Pursuant to 11 DCMR § 3118.6(b), the Board set the application for a public hearing.

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The Office of Planning (“OP”) submitted a timely report dated September 15, 2015, recommending approval of the application with conditions (Exhibit 33) and testified in support of the application at the hearing. The District Department of Transportation (“DDOT”) submitted a timely report indicating that it had no objection to the application. (Exhibit 27.) Nine letters from neighbors in support of the application were submitted to the record. (Exhibit 31B.)

An adjacent neighbor applied to be a party in opposition. (Exhibits 28-29.) As a preliminary matter to the public hearing, that applicant for party status in opposition withdrew her request, and the Board granted her and her witness additional time to testify. Ms. Nanay, the adjacent neighbor, and her tenant, June-wei Sum, testified in opposition, raising concerns about damage to trees on the property, as well as the proposed addition’s effect on light, air, and privacy.

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 under § 223, not meeting the lot occupancy requirements under § 403.2, the open court requirements under § 406.1, and the nonconforming structure requirements under § 2001.3, to construct a two-story rear addition, one-story side addition, and a basement entry in the DC/R-4 District. The only parties to the case were the ANC and the Applicant. No parties appeared at the public hearing in opposition to the application.³ 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, 403.2, 406.1, and 2001.3, 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 § 3125.5, 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 REVISED PLANS AT EXHIBIT 37 AND THE FOLLOWING CONDITIONS:**

1. The Applicant shall retain an arborist to ensure measures to maintain the life and health of existing trees located near the western property boundary (within the bounds of the adjacent western property owner).

³ The adjacent neighbor who applied to be a party in opposition withdrew that request at the hearing and testified as a person in opposition instead.

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2. Prior to a building permit being issued and any construction, the arborist's report shall be filed with the Zoning Administrator and presented to the adjacent neighbor.

VOTE: **5-0-0** (Lloyd J. Jordan, Marnique Y. Heath, Frederick L. Hill, Jeffrey L. Hinkle, and Peter G. May to APPROVE.)

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: September 24, 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.

PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN

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WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

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.