

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19074 of Alexander Hastings, pursuant to 11 DCMR § 3104.1, for a special exception under § 223, not meeting the rear yard requirements under § 404.1, to allow the construction of a two-story rear garage addition and a covered walkway to an existing one-family dwelling in the R-4 District at premises 1329 Holbrook Street, N.E. (Square 4073, Lot 82).

HEARING DATES: September 29, 2015, December 1, 2015, and February 9, 2016¹
DECISION DATE: February 9, 2016

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

On July 2, 2015, the Applicant filed a request for relief, accompanied by a memorandum, dated June 10, 2015, from the Zoning Administrator (“ZA”), which stated that Board of Zoning Adjustment (“Board” or “BZA”) approval is required for a “[s]pecial exception from § 223.1 to allow rear two-story and three-story additions to a proposed two-family flat structure that does not comply with 404.1, minimum rear yard setback requirement.” (Exhibit 8.)

The 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”) 5D, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 5D, which is automatically a party to this application. At the public hearing, the Applicant testified that he presented before the ANC twice, and that the ANC voted to support his application contingent upon the receipt of letters of support from all residents on the block. The Applicant also filed ANC 5D agendas and correspondence to support this testimony. (Exhibits 39, 43, and 46.) Although the Applicant indicated that no neighbor expressed an objection to his proposed project, he was unable to provide the former ANC 5D chair with letters in support from all neighbors. Therefore, ANC 5D did not file a written report to the record.

¹ The hearing for this application was postponed at the Applicant’s request from September 29, 2015 (Exhibit 36), and again from December 1, 2015. (Exhibit 41.)

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The Office of Planning ("OP") submitted a report on February 5, 2016, indicating that it was "not opposed in concept" but required more information and clarification. (Exhibit 47.) The OP report also noted that OP's support should not be considered as an endorsement of approval for any encroachments into the building restriction area, as the plans show that the portion of the addition that requires the requested rear yard relief is expected to be fully outside the building restriction area. At the public hearing on February 9, 2016, OP testified to confirm that it supports the Applicant's request for relief and to acknowledge that the building restriction area issue is outside the Board's jurisdiction on this special exception request, but that it wanted to raise the issue nonetheless.

The District Department of Transportation ("DDOT") submitted a timely report on February 2, 2016 indicating that it had no objection to the Applicant's request for special exception relief. (Exhibit 42.)

In advance of the public hearing on February 9, 2016, thirteen residents submitted letters in support to the record. (Exhibits 20-25, 28, 29, 31, 32, 35, 38, and 40.)

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 § 3104.1, for a special exception under § 223, not meeting the rear yard requirements under § 404.1, to allow the construction of a two-story rear garage addition and a covered walkway to an existing one-family dwelling in the R-4 District. 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 filed in this case, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1, 223, and 404.1, 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. It is therefore **ORDERED** that this application is hereby **GRANTED, SUBJECT TO THE APPROVED REVISED PLANS AT EXHIBIT 33.**

VOTE: 3-0-2 (Frederick L. Hill, Robert E. Miller and Jeffrey L. Hinkle, to APPROVE; Marnique Y. Heath, not participating and 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: February 11, 2016

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

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PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT
BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.