

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18514 of Andrew Daly and Patty Jordan, pursuant to 11 DCMR §§ 3104.1 and 3103.2, for a special exception under § 223, not meeting the lot occupancy requirements (§ 403), a variance from the parking space dimensions requirement under § 2115.1, and a variance from the garage setback requirement under § 2300.2(b), to allow a detached garage addition serving a one-family dwelling in the R-4 District at premises 1120 Park Street, N.E. (Square 987, Lot 8).

HEARING DATES: March 12, May 21, July 23, September 24, and October 8, 2013

DECISION DATE: October 8, 2013

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum, dated December 14, 2012, from the Zoning Administrator, which stated that Board of Zoning Adjustment ("Board" or "BZA") approval is needed for a special exception, pursuant to 11 DCMR §§ 3104.1 and 223.1, to allow the proposed one-story detached garage that does not comply with maximum lot occupancy requirements (§ 403.2) and for variances pursuant to 11 DCMR §§ 3103.2, 2115.1, and 2300.2(b), to allow a private garage that is not in compliance with minimum required dimensions for a required parking space and minimum required setback from the adjacent alley centerline. (Exhibit 4.)

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 the Applicant, Advisory Neighborhood Commission ("ANC") 6A, and to all owners of property within 200 feet of the property that is the subject to this application. The subject property is located within the jurisdiction of ANC 6A, which is automatically a party to this application. ANC 6A submitted a letter to deny the Applicant's requests for special exception and variance relief, with an explanation and caveat for how and when the ANC would have supported the requests. The letter, dated September 13, 2013, indicated that at a duly noticed, regularly scheduled monthly meeting on September 12, 2013, with a quorum present, the ANC voted unanimously (0:6:0) to deny the application. The ANC also adopted a subsequent resolution, by a vote of 6:0:0, to provide an explanation for the

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BOARD OF ZONING ADJUSTMENT
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EXHIBIT NO.

35

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opposition in the absence of required proof of consultation with the immediate neighbors. The ANC letter stated that the ANC would have supported the requests for relief had the Applicant provided the letters they require from the neighbors, when the ANC was not persuaded that those letters could not be obtained. The ANC specifically requested the Board grant the requested relief should the Applicant provide these letters to the Board. (Exhibit 31.) At the hearing, the Applicant submitted letters and emails from the two adjacent neighbors showing their support of the application. (Exhibit 32.) The Board found that this submission of support from both adjacent neighbors satisfied the ANC's process and by the terms of its letter, changed the ANC's position to one of support.

The Office of Planning ("OP") submitted a timely report dated July 16, 2013, recommending approval of the application. (Exhibit 30.)

Variance Relief

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary under § 3103.2, to establish the case for a variance from the parking space dimensions requirement under § 2115.1, and a variance from the garage setback requirement under § 2300.2(b). No parties appeared at the public hearing in opposition to the application. As previously discussed, the Board found that the ANC's position to deny changed to one of support, given the Applicant's submission at the hearing of letters of support from the two adjacent neighbors. 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.

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 for a special exception pursuant to §§ 3104.1 and 223 from the strict application of the lot occupancy requirements under § 403, to allow a detached garage addition serving a one-family dwelling in the R-4 District. No parties appeared at the public hearing in opposition to the application. As previously discussed, the Board found that the ANC's position to deny changed to one of support, given the Applicant's submission at the hearing of letters of support from the two adjacent neighbors. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

The Board concludes that the Applicant has met the burden of proof for special exception relief, pursuant to 11 DCMR §§ 3104.1, 223, and 403, 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 requirements 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 the application is hereby **GRANTED, SUBJECT TO THE REVISED PLANS AT EXHIBIT 27.**

VOTE: **3-0-2** (Lloyd J. Jordan, S. Kathryn Allen, and Anthony J. Hood, to Approve; Jeffrey L. Hinkle, not present or voting; 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: October 15, 2013

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 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.