

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19105 of Yolanda Garay and Francisco Ruiz, pursuant to 11 DCMR § 3104.1, for a special exception from the use requirements pursuant to § 320.3, to convert a one-family dwelling into a one-family dwelling with accessory apartment in the R-3 District at premises 2113 Bancroft Place, N.W. (Square 2531, Lot 802).

HEARING DATE: November 10, 2015

DECISION DATE: November 10, 2015

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.¹ (Exhibit 3.) The application was also accompanied by a memorandum from the Zoning Administrator (“ZA”) certifying the required relief. (Exhibit 8.)

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”) 2D, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2D, which is automatically a party to this application.

In its report dated October 21, 2015, ANC 2D stated that at a regularly scheduled and properly noticed meeting on October 19, 2015, at which a quorum was present, the ANC voted 2-0 to support the application, with two reservations – one, that the action regarding this property not be precedent-setting; and two, that the Applicant’s assure the stability of the foundations on the two adjacent properties through engineering studies and ongoing inspections of the common walls. (Exhibit 23.) The Board acknowledged the ANC’s support and determined that the two issues raised by the ANC were not properly before this Board.

The Office of Planning (“OP”) submitted a report in support of the application. (Exhibit 24.) The D.C. Department of Transportation filed a report expressing no objection to the application.

¹ While the application was self-certified, the self-certification form (Form 135, Exhibit 3) did not include a reference to § 320.3 as the basis for the special exception relief. This reference appears in the ZA’s memorandum. (Exhibit 8.)

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(Exhibit 25.)

The adjacent neighbor at 2115 Bancroft Place, N.W. testified as a person in opposition, raising concerns regarding how the proposed excavation would affect her property, given that the properties share a party wall. She also voiced concerns about how allowing accessory apartments would change the character of the neighborhood and worsen street parking issues. The Board noted that the construction issues are not properly before this Board, but should be addressed by officials responsible for implementing the building code. The Board concluded that any impact on parking would be mitigated by the Applicant's provision of two parking spaces on the subject property.

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 § 320.3. The only parties to the application were the Applicant and ANC 2D, which was in support of the relief. 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 and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 320.3, 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 § 3125.3, 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 EXHIBIT 6 - ARCHITECTURAL PLANS & ELEVATIONS.**

VOTE: **3-0-2** (Marnique Y. Heath, Peter G. May, and Frederick L. Hill to Approve; Jeffrey L. Hinkle not present, not voting; 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

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FINAL DATE OF ORDER: November 16, 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 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.