

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19170 of Kevin O'Day, as amended¹ pursuant to 11 DCMR § 3104.1, for a special exception under § 223, not meeting the lot occupancy requirements under § 403.2, and the nonconforming structure requirements under § 2001.3, to construct a one-story rear deck to an existing one-family dwelling in the R-3 District at premises 1616 Webster Street, N.W. (Square 2646, Lot 10).

HEARING DATE: Applicant waived right to a public hearing

DECISION DATE: January 12, 2016 (Expedited Review Calendar)

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

This application was accompanied by two memoranda, the first dated October 6, 2015, and a subsequent revised memorandum, dated January 4, 2016, from the Zoning Administrator certifying the required relief. (Exhibits 6 and 7 (original), and 31 (revised).)

Pursuant to 11 DCMR § 3118, this application was tentatively placed on the Board of Zoning Adjustment ("Board") expedited review calendar for decision without hearing as a result of the Applicant's waiver of its right to a hearing. (Exhibit 2.)

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") 4A, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 4A, which is automatically a party to this application. The ANC did not submit a report or testify with respect to the application. However, the Applicant submitted the ANC 4A meeting minutes of December 1, 2015, which indicated that the Applicant presented the project and there were no objections to the application. (Exhibit 33.) Letters in support of the application were filed by both of the Applicant's adjacent neighbors, Peter Castro and William Valencia. (Exhibit 29.)

¹ The Applicant initially filed for special exception relief under § 223, for an addition not meeting the lot occupancy requirements of § 403, the side yard requirements of § 405.3, and the non-conforming structure requirements under § 2001.3. The Zoning Administrator's original memorandum of October 6, 2015 (Exhibits 6 and 7) included these three areas of special exception relief, including that for the side yard requirements of § 405.3. Subsequently, the Applicant revised the application and submitted a revised memorandum from the Zoning Administrator (Exhibit 31) that removed the side yard relief. The caption has been amended accordingly.

The Office of Planning (“OP”) filed a timely report recommending approval of the application (Exhibit 30), and testified in support of the application at the hearing. The District Department of Transportation submitted a report expressing no objection to the approval of the application. (Exhibit 32.)

No objections to expedited calendar consideration were made by any person or entity entitled to do by §§ 2118.6 and 2118.7. The matter was therefore called on the Board’s expedited calendar for the date referenced above and the Board voted to grant the application, as amended.

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, 403.2, and 2001.3. No parties appeared at the public meeting 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, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1, 223, 403.2, 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 § 3125.3, 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 this application is hereby **GRANTED, SUBJECT TO THE APPROVED REVISED PLANS AT EXHIBIT 9.**

VOTE: **4-0-1** (Marnique Y. Heath, Frederick L. Hill, Jeffrey L. Hinkle, and Peter G. May to APPROVE; 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: January 15, 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 PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.