

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18234 of Utku Aslanturk and Erin Gorman, pursuant to 11 DCMR § 3103.2, for an area variance from lot area under § 401.3 and a use variance from the alley lot width and building requirements under § 2507.2, to allow the construction of a one-family dwelling on an alley lot in the R-4 District at premises rear 1300 block of D Street, S.E. (Square 1042, Lot 810).¹

HEARING DATES: July 19, 2011 and September 13, 2011
DECISION DATE: September 13, 2011

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 4.)

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”) 6B and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6B, which is automatically a party to this application. ANC 6B submitted a timely report in support of this application. The ANC report indicated that at a regularly scheduled and duly noticed meeting on July 12, 2011, with a quorum present, the ANC voted 10-0-0 to support the Applicant’s request as presented. (Exhibit 23.) The Office of Planning (“OP”) submitted a timely report which stated that they could not recommend approval of the application.² The OP report also contained a statement from the DC Fire and Emergency Services that the 16-foot wide access alley and the 30-foot wide alleys around the property would likely provide adequate access for fire and emergency vehicles sufficient to serve the dwelling. (Exhibit 22.)

¹The Applicant amended the application to add a request for an area variance from lot area under § 401.3. (Exhibit 35.)

²OP stated that it could not recommend approval of the requested use variance because, in its opinion, the Applicant neither demonstrated that the cited unique conditions and resulting undue hardship were proportional to the requested relief for a single family dwelling, nor showed that the requested relief would not pose substantial harm to the current zone plan. Subsequently, the Applicant filed a supplemental statement and provided evidence to demonstrate how the application met the burden of proof. (Exhibit 35.) The Board found that the Applicant met the burden of proof.

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BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18234

EXHIBIT NO. 38

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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 § 3103.2, for an area variance from the lot area under § 401.3 and a use variance from the alley lot width and building requirements under § 2507.2. 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. The Capitol Hill Restoration Society sent a letter in support of the application. (Exhibits 24 and 26.) A letter was also submitted to the record by John P. Smith, a Realtor, who concluded that the best use of the property would be as a single family dwelling. (Exhibit 25.)

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 in seeking variances from §§ 401.3 and 2507.2, 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 an undue hardship and a practical difficulty for the owner in complying with the Zoning Regulations, and that the 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.

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. The waiver is therefore **ORDERED** that this application, pursuant to Exhibit 8 – Set of Plans and Elevations, is hereby **GRANTED**.

VOTE: **5-0-0** (Nicole C. Sorg, Jeffrey L. Hinkle, Meredith H. Moldenhauer, Lloyd J. Jordan, and Michael G. Turnbull to GRANT)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

ATTESTED BY: _____


RICHARD S. NERO, JR.
Acting Director, Office of Zoning

FINAL DATE OF ORDER: SEP 22 2011

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.