

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18215 of Jeffrey D. Kaplan, pursuant to 11 DCMR § 3104.1, for a special exception to allow a rear addition to an existing one-family semi-detached dwelling under section 223, not meeting the side yard (§ 405.9) and nonconforming structure (§ 2001.3) requirements in the R-1-B District at premises 4854 Reservoir Road, N.W. (Square 1387, Lot 69).¹

HEARING DATE: May 24, 2011

DECISION DATE: May 24, 2011

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum, dated February 28, 2011, from the Zoning Administrator stating that a review of the Applicant’s plans for a proposed addition to the subject property indicated that Board of Zoning Adjustment (“Board”) approval was required for a special exception from § 223.1 to permit an addition to an existing non-conforming single family dwelling not meeting the minimum required side yard setback pursuant to § 405.9 in the R-1-B Zone. (Exhibit 6.)

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”) 3D and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 3D, which is automatically a party to this application. On May 19, 2011, ANC 3D submitted a report, dated May 18, 2011, indicating that at a regularly scheduled public meeting on May 2, 2011, and with a quorum present at all times, ANC 3D

¹ The application was advertised for special exception relief under § 223, as a property not meeting side yard requirements, but the Office of Planning (“OP”) identified that relief was also needed from § 2001.3 to allow an addition to a nonconforming structure. OP’s report stated that the existing property is nonconforming as to lot area (5,000 square feet (“sf”) is required; 4,361 sf existing)(§401) and as to lot width (50 feet (“ft”) is required; 30 ft existing). (Exhibit 18.) The Board adopted the reasoning set out in the OP report and thereby added relief for enlargement of a nonconforming structure as to lot area and lot width under § 2001.3. The caption has been amended to reflect that additional relief.

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BZA APPLICATION NO. 18215
PAGE NO. 2

voted unanimously by a vote of 8:0 to approve the pending application, with the neighbors not expressing any opposition. The report also indicated that one Commissioner was absent. (Exhibit 26.)

The Office of Planning ("OP") submitted a timely report, dated May 17, 2011, recommending approval of the requested special exception. As mentioned in footnote 1, in its report OP noted that the existing property is also nonconforming as to lot width and lot area and thereby relief is required under § 2001.3(b)(1) to permit enlargement of a nonconforming structure. (Exhibit 18.)

At the hearing the Applicant submitted three letters of support for the addition from the Applicant's next door neighbors: George Hemphill and Lenore Winters, 4862 Reservoir Road, N.W., and Anne Fielding, 4850 Reservoir Road, N.W. (Exhibit 27.)

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 side yard (§ 405.9) and nonconforming structure (§ 2001.3) requirements. 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 ANC and OP reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 223 (§§ 405.9 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. It is therefore **ORDERED** that this application (pursuant to Exhibit 11 – Plans) be **GRANTED**.

VOTE: 4-0-1 (Nicole C. Sorg, Jeffrey L. Hinkle, Lloyd J. Jordan, and Greg M. Selfridge to APPROVE; Meridith H. Moldenhauer not participating.)

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

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

ATTESTED BY: 
JAMISON L. WEINBAUM
Director, Office of Zoning

FINAL DATE OF ORDER: JUN 03 2011

BZA APPLICATION NO. 18215
PAGE NO. 3

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.

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BZA APPLICATION NO. 18215

As Director of the Office of Zoning, I hereby certify and attest that on June 3, 2011, a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, or delivered by electronic mail in the case of those ANCs and SMDs that have opted to receive notices thusly, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

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BZA APPLICATION NO. 18215
PAGE NO. 2

ATTESTED BY:

A handwritten signature in black ink, appearing to read "Jamison L. Weinbaum", is written over a horizontal line.

JAMISON L. WEINBAUM
Director, Office of Zoning