

**D.C. DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUSINESS AND PROFESSIONAL LICENSING ADMINISTRATION**

SCHEDULED MEETINGS OF BOARDS AND COMMISSIONS

September 2007

CONTACT PERSON	BOARDS AND COMMISSIONS	DATE	TIME/ LOCATION
Theresa Ennis	Board of Accountancy	12	8:30 am-12:30 pm
Dorothy Thomas	Board of Appraisers	19	10:00 am-12:00 pm
Leon Lewis	Board Architects and Interior Designers	07	9:00 am-1:00 pm
Dorothy Thomas	Board of Barber and Cosmetology	10	10:00 am-12:00 pm
George Beatty	Boxing and Wrestling Commission	13	7:00-pm-9:00 pm
Dorothy Thomas	Board of Funeral Directors	06	1:30 pm-5:00 pm
Theresa Ennis	Board of Professional Engineers	27	9:30 am-12:00 pm
Leon Lewis	Board of Real Estate	11	10:30 am-12:30 pm
Pamela Peters	Board of Industrial Trades	18	9:00 am-1:00 pm
	Asbestos		
	Electrical		
	Plumbing		
	Refrigeration/Air Conditioning		
	Steam and Other Operating Engineers		

Dates and Times are subject to change. All meetings are held at 941 North Capitol Street, NE., Suite 7616, Washington, DC 20001. For further information on this schedule, please contact Ms. Mary Nell Brown at 202-442-4320

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF THE ENVIRONMENT
NOTICE OF PERMIT ACTION**

Notice is hereby given that, pursuant to 40 CFR 51.61, D.C. Official Code § 2-505, and 20 DCMR 206, the Air Quality Division (AQD) of the Environmental Protection Administration located at 51 N Street, N.E., Washington, D.C., intends to issue a permit to install and operate five (5) emergency generators to Cellco Partnership (DBA Verizon Wireless) each of the emergency generator is located at the following addresses:

1. 1850 K Street, N.W. Washington, D.C. 20036
2. 441 G Street, N.W. Washington, D.C. 20548
3. 1101 Connecticut Avenue, N.W. Washington, D.C. 20036
4. 1666 K Street, N.W. Washington, D.C. 20036
5. 5225 Wisconsin Avenue, N.W. Washington, D.C. 20015

The permit applications and the proposed permits to install/operate for each emergency generator are available for public inspection at AQD and copies may be made between the hours of 8:15 a.m. and 4:45 p.m. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Abraham T. Hagos, at (202) 535-1354.

Interested persons may submit written comments within 30 days of publication of this notice. Comments should be addressed to Cecily Beall, Associate director, Air Quality Division, Environmental Protection Administration, 51 N Street, N.E., Washington, D.C. 20002. No written comments postmarked after October 9, 2007 will be accepted. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address, and a statement outlining, the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit. For more information, please contact Abraham T. Hagos, at (202) 535-1354.

EXECUTIVE OFFICE OF THE MAYOR**SERVE DC
DC COMMISSION ON NATIONAL AND
COMMUNITY SERVICE****PUBLIC MEETING**

The mission of the DC Commission on National and Community Service (Serve DC) is to promote the District of Columbia's spirit of service through national service, partnerships and volunteerism.

The DC Commission on National and Community Service (Serve DC) September 5, 2007 Commission meeting published in the August 17, 2007 DC Register has been rescheduled for:

**Tuesday, September 25, 2007, 5:00 P.M.
Conference Room 1117
One Judiciary Square
441 Fourth Street, NW
Washington, D.C.**

All meetings are open to the public. Meeting minutes can be obtained from 441 4th Street NW, Suite 1140N, Washington, DC 20001.

For additional information or to request a copy of the minutes, please call 202-727-7925.

OPTIONS PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSAL (RFP)**

Options Public Charter School seeks an accounting firm to provide monthly accounting service to include monthly compiled financial statements required by the Public Charter School Board and the school's Board of Trustees, assistance in preparation for the audit, advice on ongoing accounting and financial matters throughout the year.

Successful bidders will have experience with Charter Schools with a preference given to firms that are on the approved DCPCSB auditor list. The contract may include an annual option to renew for

Bids should be received by 4:00 pm on Friday, September 28, 2007.

Glenn Swanson
Option Public Charter School
1375 E Street NE
Washington, DC 20002
Phone: (202) 547-1028
Fax: (202) 547-1272

OPTIONS PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSAL (RFP)**

Options Public Charter School seeks a special education coordinator attorney or legal firm to represent the school and the school's Board of Trustees in the District of Columbia.

Successful bidders will have a minimum of ten years experience representing parents and Charter Schools in the District of Columbia and will offer a full range of legal services and advice to include representation at hearings and other legal proceedings.

Preference will be given to bidders offering a flat fee for all legal services incurred during the 2008 school year. Bids should include an option to renew for a period of not less than three years.

Bids should be received by 4:00 pm on Friday, September 28, 2007.

Glenn Swanson
Option Public Charter School
1375 E Street NE
Washington, DC 20002
Phone: (202) 547-1028
Fax: (202) 547-1272

OPTIONS PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSAL (RFP)**

Options Public Charter School seeks bids on laptop computers and mobile computer lab carts configured to our LAN with three year warranties. The actual number of computers purchased will vary based on the bid price; however, pricing and discounts should accommodate an order of between 40 and 100 laptops. Bidders may submit bids for the equipment alone or the equipment and installation.

In addition, we would like to receive pricing on mobile computer lab carts which support HP, IBM, or Lenovo laptop computers. The pricing of the lab carts should be independent of the laptops with an option to purchase the carts with the laptop computers.

The selection committee will consider the quality and cost of the product offered and the experience and availability of the service provider to install the product in a timely manner.

Minimum specifications for the Laptops and Lab Carts and contact information are provided below. Bids must be received by Friday, September 14, 2007 at 12:00 PM EST.

Laptop Computers:

15" TFT screen, 1.5ghz processor, 512MB RAM, 40GB hard drive, CD-RW/DVD, Wireless 802.11g, Ethernet 10/100, 4.5hrs battery life, 3 year warranty, Windows XP-Pro, Office.

(4) Brentford Mobile Lab Carts:

Two with slots for up to 12 laptops and two with slots for 18 laptops, Heavy steel cabinets with lockable doors, suitable power supply to charge laptops when not in use, top area usable for printer.

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Washington, DC 20002
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**POTOMAC LIGHTHOUSE PUBLIC CHARTER SCHOOL
REQUEST FOR PROPOSALS**

Potomac Lighthouse Public Charter Schools is seeking competitive proposals to provide Facilities services, maintenance, procurement, and construction oversight for the upcoming school year.

All sealed proposals shall be forwarded to the address listed below:

Attn: Eva Rainer, Board Chair
Potomac Lighthouse Public Charter School
1600 Taylor Street, NE
Washington, DC 20017-3035
Phone: 202-526-6003
Fax: 202-526-6005
cjames@lighthouse-academies.org

The date that the school shall receive sealed proposals has been extended from August 31, 2007, by 11:00 AM EST to September 26, 2007 by 11:00 AM EST.

Sealed proposals shall be submitted according to the specifications enclosed herein. In addition all sealed proposals shall be submitted in a sealed envelope marked as:

“PLPCS Facility Services Proposal 2007-2008.” Indicate the firm name on the envelope. Included with the hard-copy proposals shall be an electronic copy of the proposal.

Late proposals will not be accepted. Proposals submitted via facsimile (Fax) machine will not be accepted.

Potomac Lighthouse Public Charter School reserves the right to reject any and all proposals without limitation. Potomac Lighthouse Public Charter School reserves the right to award a contract as it determines to be in the best interest of Potomac Lighthouse Public Charter School. To acquire a copy of the proposal specification, please now contact Cheryl James at the above phone number or e-mail address.

THE SEED PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****PLEASE NOTE: THIS AD SUPERCEDES ANY AND ALL PREVIOUS REQUEST FOR
FOOD SERVICE MANAGEMENT PROPOSAL ADS POSTED BY
THE SEED PUBLIC CHARTER SCHOOL**

The SEED Public Charter School of Washington, DC will receive bid proposals for a Food Service Management Company to provide meals and food service operation management for approximately 330 enrolled students until Monday, September 17, 2007 at 4:30 pm. At this time, proposals will be opened at the administrative offices located at (4300 C Street, SE, Washington, DC). All proposals submitted after the deadline will be returned to the sender. All meals must meet, but are not restricted to, minimum National School Lunch and Breakfast and Snack Program meal pattern requirements. This solicitation is for the purpose of entering into a contract for the operation of a food service management program for the SEED PUBLIC CHARTER School. This contract shall be for a period of one year beginning on or about September 24, 2007 and ending June 30, 2008 with four 1-year renewals beginning July 1 annually by mutual agreement between the SEED PUBLIC CHARTER School and the Food Service Management Company. All necessary forms and information may be obtained from:

Keith Robinson
Assistant Director of Campus Operations
The SEED Public Charter School
4300 C Street, SE
Washington DC 20019
202-248-3008

TWO RIVERS PUBLIC CHARTER SCHOOL**NOTICE OF REQUEST FOR PROPOSAL**

Two Rivers Public Charter School, in compliance with Section 2204 (c) of the District Of Columbia School Reform Act of 1995 ("Act"), hereby solicits expressions of interest for the following service.

I. Construction Project Management Services for Renovations to Middle School

Superior construction project management services sought for renovations and construction for middle school program.

For Additional Information, including a copy of the RFP, E-Mail: procurement@tworiverspcs.org. Deadline for submissions is September 26, 2007 at noon via e-mail (procurement@tworiverspcs.org) or hard copy at the school's offices:

Two Rivers Public Charter School
1227 4th Street NE
Washington, DC 20002

OFFICE OF VICTIM SERVICES
PUBLIC NOTICE OF FUNDING AVAILABILITY

Victim Assistance Fund

The Office of Victim Services announces the availability of grant funds under the fiscal year 2008 Victim Assistance Fund to develop a coordinated community response to teen victimization.

Eligible applicants are non-profit, community-based organizations located in the District of Columbia that currently provide services to teen victims of violent crime.

The Request for Applications (RFA) will be available electronically beginning Tuesday, September 4, 2007.

The deadline for applications is 12:01 p.m. on Tuesday, September 18, 2007.

For more information, contact:

Bryan Criswell
Program Manager
Office of Victim Services
(202) 727-0957
bryan.criswell@dc.gov

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 17558 of Principality, L.L.C., pursuant to § 3103.2, for a variance from the lot width requirement of § 401, a variance from the lot area requirement of § 401, and a variance from the side yard requirement of § 405, to allow the construction of a new one-family detached dwelling in the R-2 District at premise 3357 Martin Luther King, Jr. Avenue, S.E. (Square 6004, Lot 12).¹

HEARING DATE: January 23, 2007
DECISION DATE: March 6, 2007

DECISION AND ORDER

This application was submitted by Principality, L.L.C. ("Applicant"), the owner of the property that is the subject of this application ("subject property"). The self-certified application requested variances from the applicable lot width and side yard requirements to permit the construction of a one-family detached dwelling on a vacant lot at 3357 Martin Luther King, Jr. Avenue, S.E. ("MLK, Jr. Ave.")

The Board held a hearing on the application on January 23, 2007, at which it determined that the Applicant also needed a variance from the minimum lot area requirement of § 401.3.

The Applicant addressed this variance, as well as the originally-requested variances, and, at the close of the hearing, the Board kept the record open for further information from the Applicant and for a report from the affected Advisory Neighborhood Commission ("ANC"), ANC 8C. The Board also set a decision date of March 6, 2007, when, at a decision meeting, the Board deliberated on the application, and voted 5-0-0 to approve it.

¹During the hearing, it was discussed whether § 401.2 of the Zoning Regulations applied here, rendering these requests for relief unnecessary. Section 401.2 permits, as a matter-of-right, construction on an unimproved lot in single ownership on November 1, 1957 which has a lot width or lot area smaller than that mandated by the Zoning Regulations for the zone district in which the lot is located, if both the lot width and lot area are at least 80% of the mandated lot width and area. The lot width mandated by the regulations for a detached one-family dwelling is 40 feet, 80% of which is 32 feet. Because the lot width of the Applicant's lot is only 25 feet, it is less than 80% of 40 feet, and therefore, § 401.2 cannot apply.

BZA APPLICATION NO. 17558**PAGE NO. 2****PRELIMINARY MATTERS**

Notice of Application and Notice of Hearing. By memoranda dated September 19, 2006, the Office of Zoning ("OZ") sent notice of the filing of the application to the D.C. Office of Planning ("OP"), the D.C. Department of Transportation ("DDOT"), ANC 8C, the Single Member District member for District 8C03, and the Councilmember for Ward 8. Pursuant to 11 DCMR § 3113.13, OZ published notice of the hearing in the *D.C. Register* and, on October 31, 2006, mailed such notice to the Applicant, ANC 8C, and all property owners within 200 feet of the subject property.

Request for Party Status. ANC 8C was automatically a party in this proceeding. Mrs. Jacson Evans, an adjacent neighbor residing at 3359 Martin Luther King Jr. Avenue, S.E., requested, and was granted, party status by the Board. She expressed concerns about the proximity of the proposed new dwelling to her home, and its effect on her privacy, the sunlight reaching her home, and her access to the side of her own home, for maintenance and repair purposes.

Applicant's Case. The Applicant and his attorney described the proposed project and how it met the three prongs of the variance test.

Government Reports. The Office of Planning filed a report with the Board dated January 16, 2007, recommending approval of the two requested variances, and pointing out the need for, as well as recommending approval of, a variance from the lot area requirement. OP opined that the less-than permitted lot width, leading in turn to a less-than permitted lot area, resulted in a lot on which nothing could be built if the Applicant were not granted the variances requested. OP also mentioned that the Applicant had agreed to enlarge its side yards somewhat and to re-position its windows in order to accommodate the neighbor who had been granted party status.

ANC Report. No ANC report was filed in this case.

FINDINGS OF FACTThe Subject Property and Surrounding Area

1. The subject property is located at 3357 Martin Luther King, Jr. Avenue, S.E., in Square 6004, Lot 12, and in an R-2 zone district.
2. The subject property is 25 feet wide by approximately 132 feet deep, resulting in a lot area of approximately 3,301 square feet.

BZA APPLICATION NO. 17558**PAGE NO. 3**

3. Although there are other lots of similar width in the area, some are developed with semi-detached units or were developed before the 1958 version of Zoning Regulations went into effect.
4. The property is one of only two vacant, unimproved lots on a street of primarily detached one-family dwellings, with a few semi-detached one-family dwellings. The other vacant, unimproved lot on the block is in the same ownership as one of the lots adjacent to it.
5. The subject lot slopes upward toward the rear, with the rear of the lot a few feet above the alley which it abuts.
6. Across Martin Luther King, Jr. Avenue to the east and southeast is an activity and educational facility operated by the National Children's Center, and Ballou High School is beyond.
7. One of a pair of units constituting a semi-detached one-family dwelling is located on the lot adjacent to the subject property to the north, and on the adjacent lot to the south is a detached one-family dwelling.
8. Houses in the square, and in the neighborhood generally, tend to be very close together, with many houses having side yards of less than eight feet.
9. As far as can be determined, the subject lot has never been developed, and it has been vacant for at least 17 years.
10. The property has been offered for sale to the adjacent homeowners and to the public, but with no response.

The Proposed Project

11. The Applicant proposes to construct a three-story plus basement one-family detached dwelling, which will be 19 feet wide and 60 feet deep.
12. The house will be set back approximately 15 feet from the front of the lot and will have a deck at the rear, with a 46-foot rear yard abutting a 15-foot wide public alley.
13. After some leveling of the rear yard adjacent to the public alley, parking will be provided in the rear, accessed from the alley.
14. The house will have side yards of three feet on each side, when side yards of a minimum of eight feet are required by the Zoning Regulations. 11 DCMR § 405.9.
15. At 25 feet wide, the subject lot is 15 feet narrower than the 40 feet mandated by the Zoning Regulations for a lot containing a detached one-family dwelling, and is 5 feet narrower than the 30 feet mandated for a lot containing a semi-detached one-family dwelling. 11 DCMR § 401.3

BZA APPLICATION NO. 17558**PAGE NO. 4**

16. At 3,301 square feet, the lot area of the subject lot is approximately 700 feet smaller than the 4,000 square feet mandated by the Zoning Regulations for a lot containing a detached one-family dwelling. 11 DCMR § 401.3.

The Requested ReliefExceptional Condition

17. The subject lot is a narrow, internal lot bounded on both sides by lots improved with residential structures, therefore, it cannot be expanded.

18. The Zoning Regulations require a lot width of 40 feet for a detached one-family dwelling, and the subject lot, at 25 feet, is just over half the width required by the Zoning Regulations.

19. Other than a detached one-family dwelling, a semi-detached single family dwelling is the only other appropriate matter-of-right use permitted in this zone, and the width of the subject lot is 5 feet narrower than the lot width required for a semi-detached dwelling.

20. Because of the too-narrow lot width, the lot area, although large enough for a semi-detached one-family dwelling, is not large enough for a detached one-family dwelling.

21. As noted in Finding of Fact No. 3, the subject lot slopes upward toward the rear.

Practical Difficulty

22. Providing two eight-foot side yards would result in a house only nine feet wide.

23. Although the subject lot is fairly deep, its too-narrow lot width results in an inability to provide a reasonably-configured one-family detached dwelling if the required eight-foot side yards are also provided.

No Substantial Detriment to Public Good or Zone Plan

24. The detached one-family dwelling is a matter-of-right use in this R-2 district.

25. The three-foot side yards proposed are not out of character for the neighborhood, as most of the houses on the block have smaller-than-required side yards.

26. The windows on the proposed dwelling have been placed so as not to significantly interfere with the privacy of the neighbors, nor will the dwelling itself unduly restrict the air or sunlight reaching nearby dwellings.

BZA APPLICATION NO. 17558**PAGE NO. 5****CONCLUSIONS OF LAW**

The Board is authorized to grant variances from the strict application of the Zoning Regulations where “by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the original adoption of the regulations, or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition” of the property, the strict application of the Zoning Regulations would “result in particular and exceptional practical difficulties to or exceptional or undue hardship upon the owner of such property.” D.C. Official Code § 6-641.07(g)(3) (2001), 11 DCMR § 3103.2. The “exceptional situation or condition” of a property can arise out of structures existing on the property itself. *See, e.g., Clerics of St. Viator v. D.C. Board of Zoning Adjustment*, 320 A.2d 291, 293-294 (D.C. 1974). Relief can only 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.” D.C. Official Code § 6-641.07(g)(3) (2001), 11 DCMR § 3103.2.

An applicant for area variances must make the lesser showing of “practical difficulties,” as opposed to the more difficult showing of “undue hardship,” which applies in use variance cases. *Palmer v. D.C. Board of Zoning Adjustment*, 287 A.2d 535, 541 (D.C. 1972). Because area variances are being sought in this case, the Applicant had to make three showings: exceptional condition of the property, that such exceptional condition results in “practical difficulties” to the Applicant, and that the granting of the variances will not impair the public good or the intent or integrity of the Zone Plan and Regulations.

The narrowness of the subject lot is an exceptional condition that results in practical difficulties to the Applicant. The lot is long, but narrow. The Applicant has been unable to sell the lot, so has decided to build on it. The only uses appropriate for this lot are a detached one-family dwelling or a semi-detached one-family dwelling, but the 25-foot lot width is too small for either use to be constructed as a matter-of-right. Therefore, any construction would need lot width relief. As a result of the narrow lot width, the lot area is also too small for a matter-of-right detached dwelling. As a further result of the narrow lot width, the provision of two eight-foot side yards results in an unreasonably narrow nine-foot wide dwelling. Therefore, it is practically difficult for the Applicant to construct a reasonably-sized detached one-family dwelling within the parameters of the Zoning Regulations.

The proposed dwelling will not cause a substantial detriment to the public good or a substantial impairment of the Zoning Regulations or Zone Plan. It is a matter-of-right use in this R-2 zone and is compatible with the character of the block and the area. The

BZA APPLICATION NO. 17558**PAGE NO. 7**

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 PURPOSES OF SECURING A BUILDING PERMIT.

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, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

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.

LM

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Appeal No. 17526 of ANC 6A pursuant to 11 DCMR §§ 3100 and 3101, from the administrative decision of the Department of Consumer and Regulatory Affairs (DCRA) in the issuance of Building Permit No. 89703, for property located at 1411 Ames Place, N.E. (Lot 39, Square 1056).

HEARING DATE: November 14, 2006

DECISION DATE: November 14, 2006 (Bench Decision)

DECISION AND ORDER

This appeal was filed on June 6, 2006 with the Board of Zoning Adjustment (the Board). The appeal challenged DCRA's decision to issue a building permit that authorized the conversion of a one-family dwelling to a two-family dwelling (flat). The one-family dwelling was constructed prior to the promulgation of the current regulations that require an on-site parking space for this use. The Appellant claims that DCRA erred in issuing the building permit despite the lack of a parking space required for a flat. DCRA did not require the space because it had credited the property with already providing the parking space required of one-family dwellings constructed on or after May 12, 1958. After allowing the parties an opportunity to be heard, the Board found that the permit had been properly issued and that the appeal should be denied. A full discussion of the facts and law supporting this conclusion follows.

PRELIMINARY MATTERS

Notice of Public Hearing

The Office of Zoning scheduled a hearing on November 14, 2006. In accordance with 11 DCMR §§ 3112.13 and 3112.14, the Office of Zoning mailed notice of the hearing to the Appellant, ANC 6A (the ANC in which the subject property is located), the property owner, and DCRA.

Parties

The Appellant in this case is the Advisory Neighborhood Commission 6A (the ANC or the Appellant). ANC Commissioner Nicholas Alberti spoke for the ANC during the proceedings.

DCRA appeared during the proceedings and was represented by Matthew Green, Esq.

Persons in Support/Opposition

The Capitol Hill Restoration Society filed a letter supporting the appeal (Exhibit 20).

BZA APPLICATION NO. 17526**PAGE NO. 2****FINDINGS OF FACT**

1. The subject property is a one-family dwelling located at 1411 Ames Place, NE, (Lot 39, Square 1056), in the R-4 zone district.
2. The building, owned by Charles Moore¹ (Owner), was constructed prior to May 12, 1958 without parking spaces. No such spaces existed on the date that the Owner applied for the building permit that is the subject of this appeal.
3. The application requested permission to convert the building from a one-family to a two-family dwelling, which is also defined by 11 DCMR § 199.1 as a “flat”. (Exhibit 5).
4. DCRA issued a building permit dated April 7, 2006, allowing for “complete interior alteration” at the premises, including a basement excavation and a height increase (Exhibit 3). The permit approval was consistent with the application for a conversion to two units and an interior renovation (Exhibit 5).
5. At the time it issued the permit, DCRA was aware that no parking spaces were shown on the proposed plans, and that the owner indicated he did not intend to provide a parking space at the property.
6. DCRA also reviewed the plat for the property. The plat showed no parking spaces on the property.
7. At a regularly scheduled and properly noticed meeting on June 8, 2006, the ANC (“Appellant”) voted unanimously to appeal DCRA’s decision to “approve the zoning discipline” and issue the building permit (Exhibit 14). The appeal was timely filed on June 6, 2006 (Exhibits 1 and 2).
8. The basis of the appeal is that the permit was issued in violation of 11 DCMR §2100. Specifically, the Appellant alleges that at least one parking spot was required.
9. Pursuant to § 2100.1, a one-family dwelling must provide one parking space for each dwelling unit and a flat is required to have one parking space for each two dwelling units.
10. The parties agree that, as of the date that the building permit was applied for, the one-family dwelling use on the subject property was not required to provide a parking space.
11. The ANC contends that since the current parking requirement is zero and the use is being changed to a flat for which one parking space is required, DCRA erred in issuing a building permit that did not require that space.

¹ Mr. Moore did not appear during the proceedings. However, he is listed as the owner on the renovation contract which is part of the administrative record in this case (Exhibit 4).

BZA APPLICATION NO. 17526**PAGE NO. 3**

12. The Zoning Administrator contends that because of the grandfathering provision of 11 DCMR § 2100.1, the property should be deemed to already have satisfied the requirement of providing the single parking space required for a one-family dwelling, and since a flat also requires a single space, no additional parking is required.

CONCLUSIONS OF LAW

Pursuant to the Zoning Act, the Board has jurisdiction to hear appeals alleging "error in any order, requirement, decision, determination, or refusal made by ... any [District] administrative officer or body in the carrying out or enforcement of the Zoning Regulations. D.C. Official Code 6-641.07(g) (1) (2001). In this case, the Appellant alleges that DCRA erred in issuing the subject building permits because the parking requirements set forth in 11 DCMR § 2101 were not met.

Subject to certain exceptions not applicable here, all buildings or structures erected on or after May 12, 1958 must be provided with parking spaces to the extent specified in 11 DCMR § 2101.1. 11 DCMR §§2100.1, 2101. 1; § 2101. 1 provides that a single parking space is required for a single family dwelling or a flat.²

There is no disagreement that because this one-family dwelling was constructed prior to May 12, 1958, it does not have to provide the one-parking space required by § 2101.1 for one-family dwellings constructed on or after that date. The parties differ over whether the addition of another dwelling unit triggers a parking requirement. The Appellant offers two theories in support of the appeal.

First, Appellant claims that the proposed addition of the dwelling unit would result in a change of the building's use from a one-family dwelling to a flat. One-family dwellings and flats are identified as permitted uses within Residence districts and a one-family dwelling can be lawfully converted to a flat in the R-4 district as a matter of right.

Subsection § 2100.4, governs the circumstances when a change in use subjects the property to a different and more stringent parking schedule. It provides that, except for historic landmarks and buildings that contribute to a historic district:

when the use of a building or structure is changed to another use that requires more parking spaces than required for the use existing immediately prior to the change ... parking spaces shall be provided for the additional requirement in the amount necessary to conform to § 2101.1.

Appellant contends that this provision should apply to this one-family dwelling because the current parking requirement is zero in light of the grandfathering set forth in § 2101.1. It argues that since a flat requires the provision of one space, the proposed conversion to that use "requires more parking spaces than required for the use existing immediately prior to the change".

² Two parking spaces are required in the R-5-A District. In all other Residential Districts, only one is required.

BZA APPLICATION NO. 17526**PAGE NO. 4**

A similar argument was made before the District of Columbia Court of Appeals in *Gladden v. BZA*, 659 A.2d 249 (D.C. 1995). In that case, the BZA agreed with the Zoning Administrator that one, rather than two parking spaces, was required in order to convert a home built prior to May 12, 1958 to a youth rehabilitation home. Like the Appellant here:

The Petitioner's argument fail[ed] to take into account the "grandfathering" procedure established by 11 DCMR §§ 2100.1 and 2100.4. "The regulations exempt buildings built before May 12, 1958 -- the effective date of the parking regulations -- from [specific parking] requirements." *Woodley Park Comm. Ass'n v. District of Columbia Bd. of Zoning Adjustment*, 490 A.2d 628, 639 (D.C. 1985); see also *Page Associates v. District of Columbia Bd. of Zoning Adjustment*, 463 A.2d 649, 651 (D.C. 1983) (noting that buildings built before the regulations that are converted to another use must provide additional parking spaces in the amount not grandfathered).

...In sum, we conclude that of the two spaces required for a youth rehabilitation home under 11 DCMR § 2101.1 one space is supplied by the grandfathered credit for the pre-1958 structure and the applicant provided the other space with a standard nine by nineteen-foot space on the premises.

Id. at 253-254.

Based upon this precedent, the Board finds that the Zoning Administrator properly deemed the property as having already furnished the one space required for a one-family dwelling. After crediting this space against the one space required for a flat, the Zoning Administrator correctly found that no additional parking was required.

For its second theory, the Appellant claims that the addition of a dwelling unit will double the intensity of the use and therefore additional parking is required under 11 DCMR § 2100.6. That subsection requires additional parking "when the intensity of use of a building or structure existing before May 12, 1958 is increased by an addition of ... dwelling units" Subsection 2100.7 provides that such additional parking is not required "unless the addition increases the intensity of use of the building or structure by more than twenty-five percent (25%) of the aggregate."

The Board agrees with the Zoning Administrator that § 2100.6 should be read together with the general grandfathering provision of § 2100.1. Whether calculating the parking requirement resulting from a change of use (as was the circumstance in the *Gladden* case) or from an intensification of a use, a grandfathered building should be credited with the number of parking spaces that would have been required were it subject to the parking schedule of § 2100.1. The Zoning Administrator properly determined that the addition of the dwelling unit required no additional parking on the subject property.

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The Board is required under § 13 of the Advisory Neighborhood Commission Act of 1975, effective October 10, 1975 (D.C. Law 1-21), as amended; D.C. Official Code § 1-9.10(d)(3)(A)), to give "great weight" to the issues and concerns raised in the affected ANC's recommendations. This opinion fully addresses why the Board does not find the ANC's views to be persuasive.

For reasons discussed above, it is hereby **ORDERED** that the appeal is **DENIED**.
Vote taken on November 14, 2006

VOTE: 4-0-1 (Geoffrey H. Griffis, Ruthanne G. Miller, John A. Mann II, and Anthony J. Hood in support of the motion to deny the appeal, Curtis L. Etherly, Jr. not voting, being necessarily absent)

FINAL DATE OF ORDER: **AUG 23 2007**

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

SG

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