

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION**Notice of Agency Relocation**

Attention ABRA customers, our office will be closed on Friday, December 11, 2009 for the relocation of our Agency.

We will reopen to the public on Monday, December 14, 2009 at our new location at 1250 U Street N.W., Washington DC, 20009. The new office is located directly above the 13th Street Exit of the U Street/African-American Civil War Memorial/Cardozo Metro Stop on the Green/Yellow Line

ABRA's new public reception area will be located on the third floor of this building. The ABC Board's public hearing room will be located on the second floor of this building.

Please note, that the agency will not be able to accept or process any payments made with cash at 1250 U Street, NW. Furthermore, no other agency at this location will be available to accept or process cash payments for ABRA licenses or fines.

The following forms of payment are acceptable: Check, Money Order, Credit Card (Visa and MasterCard only). We apologize for any inconvenience this may cause you, and we look forward to our continued work with you at our new location.

Thank you,

ABRA

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BOARD FOR THE CONDEMNATION OF INSANITARY BUILDINGS

NOTICE OF SCHEDULED MEETING

The Board for the Condemnation of Insanitary Buildings will be holding a scheduled meeting on Wednesday, December 16, 2009 at 10:00 am. The meeting will be held at 441 4th Street, NW, 11th Floor Conference Center, Washington, D.C. 20001.

Draft board meeting agendas are available on the website of the Department of Consumer and Regulatory Affairs at dcra.dc.gov, by clicking on the “Board for the Condemnation of Insanitary Buildings” tab on the main page.

For any inquiries regarding properties before the Board for the Condemnation of Insanitary Buildings, please call (202) 442-4332 or e-mail vacantproperty@dc.gov.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS**CONSTRUCTION CODES COORDINATING BOARD****NOTICE OF SCHEDULED MEETING**

The Construction Codes Coordinating Board will be holding a scheduled meeting on Wednesday, December 16, 2009 at 10:00 am. The meeting will be held at 941 North Capitol Street, NE, Suite 9500, Washington, D.C. 20002.

Draft board meeting agendas are available on the website of the Department of Consumer and Regulatory Affairs at dcra.dc.gov, by clicking on the "Construction Codes Coordinating Board (CCCB)" tab on the main page.

DISTRICT OF COLUMBIA

EDUCATION LICENSURE COMMISSION

NOTICE OF EDUCATION LICENSURE COMMISSION PUBLIC SESSIONS

The Education Licensure Commission (the “Commission”), pursuant to the Advisory Neighborhood Commission Act, CODE Ann., § 1-261 (1987), AND THE ADMINISTRATIVE PROCEDURE ACT, D.C. CODE ANN., § 1-1506 (1987), hereby gives notice that the Commission’s public meetings are going to take place as follows:

Meeting Dates	Sessions	Time
Tuesday, January 19, 2010	PS-01-10	10:30pm – 3:00pm
Tuesday, February 23, 2010	PS-02-10	10:30pm – 3:00pm
Tuesday, March 23, 2010	PS-03-10	10:30pm – 3:00pm
Tuesday, April 20, 2010	PS-04-10	10:30pm – 3:00pm
Tuesday, May 25, 2010	PS-05-10	10:30pm – 3:00pm
Tuesday, June 15, 2010	PS-06-10	10:30pm – 3:00pm
Tuesday, July 20, 2010	PS-07-10	10:30pm – 3:00pm
AUGUST RECESS	AUGUST RECESS	AUGUST RECESS

Unless otherwise noted, meetings are held monthly at:

441 4th Street, NW
 One Judiciary Square
 Citywide Conference Center
 Suite 1114
 Washington, DC 20001

Please visit our website at www.osse.dc.gov to confirm times as it varies from month to month.

Should you have any questions regarding the public sessions, please contact Ms. Robin Jenkins, Executive Director, at (202) 724-2095.

BOARD OF ELECTIONS AND ETHICS**CERTIFICATION OF ANC/SMD VACANCIES**

The District of Columbia Board of Elections and Ethics hereby gives notice that there is a vacancy in one (1) Advisory Neighborhood Commission office, certified pursuant to D.C. Official Code § 1-309.06(d)(2); 2001 Ed; 2006 Repl. Vol.

VACANT: 6A02

Petition Circulation Period: **Monday, December 14, 2009 thru Monday, January 4, 2010**
Petition Challenge Period: **Thursday, January 7, 2010 thru Wednesday, January 13, 2010**

Candidates seeking the Office of Advisory Neighborhood Commissioner, or their representatives, may pick up nominating petitions at the following location:

**D.C. Board of Elections and Ethics
441 - 4th Street, NW, Room 250N
Washington, DC 20001**

For more information, the public may call **727-2525**.

DISTRICT OF COLUMBIA BOARD OF ELECTIONS AND ETHICS

MONTHLY MEETING SCHEDULE

For the period of January 2010 through December 2010

This Schedule is subject to change. Please call 727-2525 for additional information.

DATE	TIME	ROOM NUMBER
Wednesday, January 6, 2010	10:30 AM	Room 280 North
Wednesday, February 3, 2010	10:30 AM	Room 280 North
Wednesday, March 3, 2010	10:30 AM	Room 280 North
Wednesday, April 7, 2010	10:30 AM	Room 280 North
Wednesday, May 5, 2010	10:30 AM	Room 280 North
Wednesday, June 2, 2010	10:30 AM	Room 280 North
Wednesday, July 7, 2010	10:30 AM	Room 280 North
Wednesday, August 4, 2010	10:30 AM	Room 280 North
Wednesday, September 1, 2010	10:30 AM	Room 280 North
Wednesday, October 6, 2010	10:30 AM	Room 280 North
Wednesday, November 10, 2010	10:30 AM	Room 280 North
Wednesday, December 1, 2010	10:30 AM	Room 280 North

DISTRICT DEPARTMENT OF THE ENVIRONMENT**NOTICE OF FILING OF AN APPLICATION
TO PERFORM VOLUNTARY CLEANUP**

Pursuant to § 601(b) of the Brownfield Revitalization Amendment Act of 2000, effective June 13, 2001 (D.C. Law 13-312; D.C. Official Code § 8-636.01(b) (Supp. 2005) (Act)), the Voluntary Cleanup Program in the District Department of the Environment (DDOE), Land Remediation and Development Branch (LRDB), is informing the public that it has received a revised Voluntary Cleanup Action Plan (VCAP) to support a Voluntary Cleanup Program (VCP) application. The applicants for the real property located at 1755-1759 Columbia Road, N.W., case No. VCP2004-004 are Combined Properties, Incorporated and 1755-1759 Columbia Road, L.L.C., 1255 22nd Street, N.W., Sixth Floor, Washington, D.C. 20037-1225, Attn. Mr. Alexis S.C. Iszard, Vice President. The application identified sources of chlorinated organic solvents in soil and groundwater. The applicants had originally proposed development of the property from strictly commercial to mixed-use commercial/residential. However, under the revised VCAP the property will remain as strictly commercial. The applicants intend to conduct an investigation of the subject property prior to redevelopment.

Pursuant to § 601(b) of the Act, this notice will also be mailed to the Advisory Neighborhood Commission (ANC) for the area in which the property is located. The application is available for public review at the following location:

Voluntary Cleanup Program
District Department of the Environment (DDOE)
51 N Street, N.E., 6th Floor, Room 6011
Washington, DC 20002

Interested parties may also request a copy of the application for a small charge to cover the cost of copying by contacting the Voluntary Cleanup Program at the above address or calling (202) 535-1771.

Written comments on the proposed approval of the application must be received by the VCP program at the address listed above within twenty-one (21) days from the date of this publication. DDOE is required to consider all public comments it receives before acting on the application, the cleanup action plan, or a certificate of completion.

**DISTRICT OF COLUMBIA
DISTRICT DEPARTMENT OF THE ENVIRONMENT**

NOTICE OF FUNDING AVAILABILITY

Mayor's Green Summer Job Corps Program

The District of Columbia Department of Environment (DDOE) is soliciting applications from educational institutions, District of Columbia government agencies, and nonprofit organizations to assist DDOE with implementing the Mayor's Green Summer Job Corps program.

Approximately \$250,000 in District funds may be available on a competitive basis, pending the availability of funding and approval by the appropriate District agency.

The following projects will be available for application:

Mayor's Green Summer Job Corps

The Request for Applications will be available online at <http://www.opgd.dc.gov> under "District Grants Clearinghouse," and will also be available to be picked up beginning December 11, 2009.

Applications can be obtained from:

Sharon D'Emidio
Green Summer Program
District Department of the Environment
51 N Street, N.E.
Sixth Floor
Washington, D.C. 20002

You may also request an email version of the application by writing to Sharon D'Emidio at: sharon.demidio@dc.gov.

The deadline for application submission is January 22, 2010 at 5:00 p.m. Five hard copies and one electronic copy of the application must be submitted to the address above. For additional information, please contact Sharon D'Emidio, (202) 596-4639.

DISTRICT OF COLUMBIA DEPARTMENT OF HEALTH**NOTICE OF FUNDING AVAILABILITY
RFA # CHP_ 11.23.09**

This notice supersedes the NOFA published in the DC Register 11/20/09 Volume 56/47 and 11/27/09 Volume 56/48.

**Capital Health Project Round 4 – School Based Health Centers
New Deadline: Tuesday, January 5, 2010 at 4:00 p.m.**

The Government of the District of Columbia, Department of Health (DOH), is soliciting applications from qualified not-for-profit organizations located and licensed to conduct business within the District of Columbia to improve access to care for high school students by operating new school-based health centers. The overall goal is to help address the primary and urgent care needs of students in the schools that will house the school-based health centers. This includes assuring appropriate confidentiality and coordination of care, making referrals for specialty care, and serving as a model medical home.

DOH is working with DC Public Schools (DCPS) and the Office of Public Education Facilities Modernization (OPEFM) to complete the build-out of the space for each health center. Each school-based health center (SBHC) will be approximately 1,800 to 2,800 square feet; the size will vary depending on the space available in the school. The school health center will include practice space for the school nurse. Details on the expected layout of the school-based health centers will be provided as part of the RFA.

An applicant may submit an application to operate the school-based health center at one, two or all of the three sites identified below:

- Ballou Senior High School
- Coolidge Senior High School
- Anacostia Senior High School

This RFA will make available up to \$2 million for: 1) start-up of the school-based health centers (including purchase of medical equipment and stocks of medications and other supplies) and 2) up to two years of operating funds. The \$2 million is the total available for all three school-based health centers (i.e., it is not \$2 million per center).

No construction funding will be available through the RFA. DOH will provide funds directly to OPEFM for the build-out/construction of the centers.

The start-up and operational funding is being provided from the Community Health Care Financing Fund in accordance with the Community Access to Health Care Amendment Act of 2006 and the East of the River Hospital Revitalization Amendment Act of 2008.

These funds are currently available. The number of awards and the amount of each individual award will be determined by the Department of Health after its review of the applications submitted.

Eligible Applicants:

Eligible applicants must be not-for-profit organizations currently located and licensed to operate in the District of Columbia, and may include individual health care provider organizations, groups of providers and organizations working in partnership with health care providers to operate school-based health centers. Applications on behalf of more than one organization must include letters of intent or similar documents confirming the roles of each organization in the application.

Partnerships between not-for-profit and for-profit organizations are permitted, if a lead not-for-profit applicant is designated.

Eligible Uses of Grant Funds:

The purpose of these funds is to cover: 1) SBHC start-up costs, including purchase of medical equipment and stocks of medications and other supplies; and 2) operating costs for up to the first two years of a fully functioning school-based health center. These costs should be offset to some degree by revenues received through billing (private and public insurers) for services provided.

The RFA will be available for pick up at 825 North Capitol Street NE, Third Floor Reception, on Monday, November 23, 2009, and will also be available (as of that day) at www.opgd.dc.gov under the District Grants Clearinghouse. The deadline for submission of applications is **Tuesday January 5, 2010 at 4:00 p.m.** Applications submitted at or after 4:01 p.m. on Tuesday, January 5, 2010 will not be forwarded to the review panel for funding consideration.

Prospective applicants obtaining this RFA through the Internet should provide the Department of Health with the following information c/o Charles Nichols (charles.nichols@dc.gov) in order to receive any amendments or clarifications that might be issued.

- Name of organization;
- Key contact;
- Mailing address;
- Telephone and fax numbers; and
- E-mail address

The Pre-Application Meeting for RFA # CHP_11.23.09 will be held on **December 3, 2009 from 2:00 to 3:30**, at the District of Columbia Department of Health, 825 North Capitol Street NE, 4th Floor, Conference Room 4131.

Please e-mail requests for additional information to Charles Nichols at charles.nichols@dc.gov.

**DISTRICT OF COLUMBIA
HISTORIC PRESERVATION REVIEW BOARD**

NOTICE OF HISTORIC LANDMARK AND HISTORIC DISTRICT DESIGNATIONS

The D.C. Historic Preservation Review Board hereby provides public notice of its decision to designate the following property as a historic landmark in the D.C. Inventory of Historic Sites. The property is now subject to the D.C. Historic Landmark and Historic District Protection Act of 1978.

Designation Case No. 07-32: Bernard T. Janney Elementary School

4130 Albemarle Street, NW (Square 1729, Lot 808)

Designated November 19, 2009

Designation Case No. 07-34: Jesse Reno School

4820 Howard Street, NW (Square 1759, Lot 809)

Designated November 19, 2009

Listing in the D.C. Inventory of Historic Sites provides recognition of properties significant to the historic and aesthetic heritage of the nation's capital city, fosters civic pride in the accomplishments of the past, and assists in preserving important cultural assets for the education, pleasure and welfare of the people of the District of Columbia.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**

NOTICE OF SOLICITATION OF OFFERS

The Department of Housing and Community Development (Department) will release its 3rd Solicitation for Offers (SFO) for the development of several District-owned properties on December 18, 2009.

The Department is seeking offers for the development of single and multifamily housing units, including affordable units, to be built on the Development Sites in the following seven locations:

Development Site #1:

SSL	Property Address	Property Type	Ward	Zoning	Historic District	Neighborhood	Assessed Value
6170, 0804	10 Brandywine St, SE	Vacant Lot	8	R-5-A	No	Bellevue	\$184,690

Development Site #2:

SSL	Property Address	Property Type	Ward	Zoning	Historic District	Neighborhood	Assessed Value
6239,0 060	62 Forrester St, SW	Vacant Lot	8	R-5-A	No	Bellevue	\$77,140

Development Site #3:

SSL	Property Address	Property Type	Ward	Zoning	Historic District	Neighborhood	Assessed Value
6239, 0082	105 Galveston Pl, SW	Vacant Building	8	R-5-A	No	Bellevue	\$251,400

Development Site #4

SSL	Property Address	Property Type	Ward	Zoning	Historic District	Neighborhood	Assessed Value
6240, 0054	35 Forrester St, SW	Vacant Building	8	R-5-A	No	Bellevue	\$243,330

Development Site #5

SSL	Property Address	Property Type	Ward	Zoning	Historic District	Neighborhood	Assessed Value
6240, 0063	61 Forrester St, SW	Vacant Building	8	R-5-A	No	Bellevue	\$312,920

Development Site #6

SSL	Property Address	Property Type	Ward	Zoning	Historic District	Neighborhood	Assessed Value
6240, 0060	53 Forrester St, SW	Vacant Building	8	R-5-A	No	Bellevue	\$311,270

Development Site #7

SSL	Property Address	Property Type	Ward	Zoning	Historic District	Neighborhood	Assessed Value
6240, 0803	157 Forrester St, SW	Vacant Lot	8	R-2	No	Bellevue	\$238,310

The Solicitation for Offers, including application materials (CD format), will be available on December 18th for pickup at Department of Housing and Community Development, Property Acquisition and Disposition Division, 1800 Martin Luther King Avenue, SE, Lobby, Washington, DC 20020. A copy of the Solicitation will also be posted on the DHCD website after December, 18th, 2009. Hard Copies of the Solicitation materials will be available upon request. A pre-bid meeting will be held at the Department's offices, Wednesday, January 27, 2010, at 2pm. The deadline for submitting proposals will be February 15, 2010 at 3pm. For further information and questions, please contact Adarsh Hathi, Realty Project Manager at Adarsh.hathi@dc.gov or (202) 478-1351.

DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT

NOTICE OF FUNDING AVAILABILITY**Ward 4 Storefront Improvement Program**

The Department of Small and Local Business Development (DSLBD) is soliciting applications for the Ward 4 Storefront Improvement Program. The Program is designed for eligible Ward 4 applicant business owners to make small design fixes to their storefronts. Ward 4 businesses will be selected, through a competitive application process. The services that are eligible are strictly for storefront exterior improvements, including signs, awnings, lighting, painting, and window glass.

Selected businesses will not receive direct funding. Approved improvement services will be funded by the Ward 4 Capital Improvement Program. Business owners are eligible for up to \$15,000 in improvement services. While the storefront improvement services are free to the business owner, the business owner is responsible for any permit fees, which range from \$150 to \$600. As a pilot program, resources are only available for a limited number of Ward 4 businesses.

DSLBD convened business outreach meetings in Ward 4 commercial districts on November 16, 2009, November 18, 2009, and November 19, 2009 to inform businesses about the participation requirements, eligible improvements, and the application process.

The application comprises two components. Eligible businesses must first complete the **STEP 1 Application for Services**, which focuses on required information on the commercial business (including clean hands certification) and the demonstrated need for storefront improvement services. Based on satisfactory completion of STEP 1, applicant businesses will receive the **STEP 2 Application for Services**, which will convey the detailed design specifications for each requested improvement.

The **STEP 1 Application for Services** will be released and available on the DSLBD website (www.dslbd.dc.gov). Organizations may also pick-up the application at the Department of Small and Local Business Development, 441 4th Street, NW, Suite 970N, Washington, DC 20001, or contact the Department at (202) 727-3900. The **STEP 1 Application for Services** shall be submitted to the Commercial Revitalization Division, Department of Small and Local Business Development, 441 4th Street, NW, Suite 970N, Washington, DC 20001, by close of business on Wednesday, December 30, 2009.

For more information, contact Phyllis R. Love, Assistant Director, Office of Commercial Revitalization, Department of Small and Local Business Development at (202) 727-3900.

YOUNG AMERICA WORKS PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****Security Services**

Young America Works Public Charter School, in compliance with Section 2204 (C) of the District of Columbia School Reform Act of 1995, hereby solicits requests for proposals (RFP) for security services.

The RFP package can be obtained from the school or by emailing Ms. Sharita Slayton, Director of Operations at sslayton@youngamericaworkspcs.org include Security Services RFP in the subject heading.

Email questions to sslayton@youngamericaworkspcs.org include Security Services RFP in the subject heading.

Deadline for submission is Thursday, December 28, 2009 at 5:00 pm EST.

**NO PROPOSALS WILL BE ACCEPTED AFTER THE DEADLINE
FAXED OR EMAILED PROPOSALS WILL NOT BE ACCEPTED**

Please mail or deliver proposals and supporting documents to the following address:

Attention: Ms. Sharita Slayton
Young America Works Public Charter School
6015-17 Chillum Place NE
Washington, DC 20011

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

Application No. 17753-A of W Street Acquisitions LLC, pursuant to 11 DCMR §§ 3104.1 and 3103.2, for a variance from the lot area requirements of section 401.3, a variance from the lot occupancy requirements of section 403.2, a variance from the rear yard requirements of section 404.1, variances from the side yard requirements of sections 405.3 and 405.9, a variance from the front yard requirements of section 2516.5(b), and a special exception under section 2516 which authorizes exceptions to building lot control in residence districts to permit the construction of a new residential development in the R-4/R-3 District at premises 1226-1252 W Street, S.E. (Square 5782, Lots 98, 99, 694, 810, 811, 812 and 1022).

HEARING DATE: February 19, 2008
DECISION DATE: February 19, 2008 (Bench Decision)

CORRECTED SUMMARY ORDER*

SELF-CERTIFIED

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

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) 8A and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 8A, which is automatically a party to this application. ANC 8A did not submit an official report related to the application. The Office of Planning (OP) submitted a report in support of the application.

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 section 2516. 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 report, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 2516, that the requested relief can be granted being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the

*This Order is corrected to accurately reflect that the hearing and decision dates occurred in 2008, not 2007.

**BZA APPLICATION NO. 17753-A
PAGE NO. 2**

requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Based upon the record before the Board and having given great weight to the Office of Planning report filed in this case, the Board concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2, (401, 403, 404, 405 and 2516.5(b)) that there exists an exceptional or extraordinary situation or condition related to the property that creates 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 § 3101.6, 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 be **GRANTED**.

VOTE: **5-0-0** (Ruthanne G. Miller, Gregory N. Jeffries, Marc D. Loud, Shane L. Dettman and Mary Oates Walker to approve)

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

Each concurring member approved the issuance of this order.

FINAL DATE OF ORDER: FEBRUARY 21, 2008

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

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.

**BZA APPLICATION NO. 17753-A
PAGE NO. 3**

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

Application No. 17919 of Richard Barnes and Janet Staihar, pursuant to 11 DCMR § 3103.2, for variances from the lot occupancy requirements under § 403 and the rear yard requirements under § 404.1 of the Zoning Regulations, to permit the construction of a rear addition to an existing one-family row dwelling in the R-4 zone district, at premises located at 3150 17th Street, N.W. (Square 2600, Lot 87).

HEARING DATE: May 12, 2009

DECISION DATE: May 12, 2009

DECISION AND ORDER

Richard Barnes and Janet Staihar (the applicant), filed this application on December 12, 2008 for area variances under § 403.2 (lot occupancy requirements) and 404.1 (rear yard requirements) of the Zoning Regulations. Following a full public hearing, the Board of Zoning Adjustment (the Board) voted to deny the requested relief. A full explanation of the factual and legal basis for this decision follows.

PRELIMINARY MATTERS

Self-Certification

The zoning relief requested in this case was self-certified pursuant to 11 DCMR § 3113.2 (Exhibit 4). The application was self-certified by the applicant's architect, Meagan Mitchell, of Suzanne Reatig Architecture. Ms. Mitchell also appeared at the public hearing on the applicant's behalf.

Notice of Public Hearing

Notice Pursuant to 11 DCMR § 3113.13, notice of the hearing was sent by the Office of Zoning to the applicant, all owners of property within 200 feet of the subject site, Advisory Neighborhood Commission (ANC) 1D, and the District of Columbia Office of Planning (OP).

Posting The applicant posted placards at the property regarding the application and public hearing in accordance with 11 DCMR §§ 3113.14 through 3113.20. It also submitted an affidavit to this effect in accordance with 11 DCMR §§ 3113.19 and 3113.20. (Exhibit 25).

ANC 1 D The subject site is located within the jurisdiction of ANC 1D, which is automatically a party to this application. In its report dated May 6, 2009, ANC 1D indicated that at a regularly

BZA APPLICATION NO. 17919**PAGE NO. 2**

scheduled and legally noticed meeting on April 21, 2009, with a quorum present, the ANC voted to support the application. (Exhibit 26). The report stated that it had “neither issues nor concerns with the proposed zoning variance”. Greg Edwards, the ANC vice-chair, presented the ANC report at the public hearing, and testified that “...the statement that there are neither issues nor concerns now is no longer true.” (T., p. 22). Mr. Edwards explained that the application had been discussed at a second ANC meeting, and that the ANC considered whether to change its resolution of support. (T., p. 20-22). In response to Board questioning, Mr. Edwards also acknowledged that the ANC had not reviewed the application in accordance with the variance test set forth in § 3103.2 of the Zoning Regulations. (T., p. 84-90).

Requests for Party Status There was a request for party status dated April 15, 2009 from Frank Agbro, an adjacent property owner residing at 1702 Kilbourne Place, NW. (Exhibit 22). The request was granted, with no objection from the applicant or the ANC.

Persons in Support/Opposition No persons testified in support or opposition to the application. The Board received letters in support of the application from three neighboring property owners. (Exhibits 20, 21, and 23).

Government Reports

OP Report OP reviewed the variance application and prepared a report recommending denial of the variance requests (Exhibit 24). OP’s representative, Karen Thomas, testified that there were no exceptional conditions at the property that warranted the need for zoning relief, and that the proposal would be a detriment to the zone plan.

Historic Preservation Review Office The existing structure is a contributing building in the Mount Pleasant Historic District, so that any permit to alter it would have to be reviewed by the Mayor to determine whether the proposal would be consistent with the applicable principle contained in the Historic Preservation Act. As permitted under the Act, applicant sought “conceptual design review” by the Historic Preservation Office staff before filing for a permit. The non-binding Staff Report and Recommendation concluded that the addition was consistent with the purposes of the Historic Preservation Act. (Exhibit 7).

Request for Continuance Mr. Agbro requested a continuance of the public hearing, claiming that the ANC resolution in support was unfair and that the ANC had not provided adequate notice of its intention to vote on the proposed project. The Board denied this request. Assuming that Mr. Agbro was correct, an ANC report issued without proper notice would not warrant the continuation of the case, but rather would result in the Board not being able to give the ANC great weight. In any event, the Board concludes that proper notice was given and notes that the resolution states as much. Ultimately, the fact that the Board gave great weight to the ANC’s advice did not harm Mr. Agbro at all, because the Board found the ANC’s advice to be unpersuasive.

BZA APPLICATION NO. 17919**PAGE NO. 3****FINDINGS OF FACT****The Site and Surrounding Area**

1. The subject property is located at 3150 17th Street, NW, Square 2600, Lot 87.
2. Lot 87 is a rectangular shaped lot measuring 18 feet in width and 67.5 feet in length.
3. Lot 87 is a corner lot, situated at the corner of 17th Street and Kilbourne Place, NW. It abuts a 15 foot wide alley at the rear.
4. The lot is located in the R-4 zone district and in the Mount Pleasant Historic District.
5. The lot is improved with a three-story brick row dwelling, with a basement and one parking space.
6. The rear of the property is paved from the alley to the rear wall of the house. Part of the paved area is in the public space, is in poor condition, and is used by others as an unauthorized parking area.

The Proposed Project

7. The applicant proposes to construct a 16 x 16 foot sun room which would be located at the second level of the dwelling. The sun room would be supported on brick piers, with parking below.
8. The sun room would be one story in height and would be fully enclosed by walls, with casement windows on three sides.
9. The applicant also proposes to remove the existing concrete parking area and replace it with a new landscaped area.

The Zoning Relief

10. Although the Zoning Regulations require a minimum lot area of 1,800 square feet, the lot area is only 1,275 square feet. However, because the lot predates the adoption of the Zoning Regulations in 1958, it is a legally non-conforming lot. See, 11 DCMR § 2000.4. However, no expansion of a building located on such a lot may not be enlarged or replaced by a new building unless it complies with all other provisions of [Title 11].” 11 DCMR § 401.1.
11. The lot was improved with the existing row house, in excess of the maximum lot occupancy (67.7%), prior to the adoption of the Zoning Regulations in 1958. Because the structure predates the adoption of the Zoning Regulations, it is a legally non-conforming structure.

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- 11 DCMR § 2000.4. However, a structure that is nonconforming as to lot size may not be expanded, 11 DCMR § 2001.3(a) and the enlargement cannot “increase or extend any existing, nonconforming aspect of the structure; nor create any new nonconformity of structure and addition combined. 11 DCMR § 2001.3(b)(2).
12. The R-4 district permits a maximum lot occupancy of 60 percent for row dwellings. *See*, 11 DCMR § 403.2. Because the proposed addition will result in a lot occupancy of 88.7%, the applicant requires variance relief under § 403.2.¹ The request, if granted, would increase the lot occupancy by 20%.
13. The R-4 district requires a minimum rear yard of 20 feet for any structure located in the district. *See*, 11 DCMR § 404.1. Because the proposed addition will reduce the 20-foot rear yard and result in a rear yard of only 4 feet, the applicant requires variance relief under § 404.1.

Exceptional Topography, Shape, and Condition

14. There is nothing exceptional about the shape of Lot 87, which has a typical rectangular shape.
15. There is nothing exceptional about Lot 87’s location at a corner. The Board agrees with OP that a corner lot, in and of itself, is not exceptional because there are many corner lots. (T. p. 71).
16. Although Lot 87 is smaller than other lots in the Square (Square 2600), it is similar to nearby lots in the opposite square. The lots opposite it in Square 2602, though a bit wider, are even smaller than Lot 87. (Exhibit 6, Plat).
17. The Board agrees with OP that, when compared to other lots in the District, or the Mount Pleasant Historic District, the size of Lot 87 is not unusual. (T., p. 58).
18. When compared to other lots in the same row (Lots 83, 84, 85 and 86), the depth of Lot 87 is not unusual. (Exhibit 6, Plat). The lots all have about the same depth.

Practical Difficulty

19. The applicant claims that the footprint of the existing house is too small to accommodate a space that could be utilized as a dining room, or a meeting area for business purposes. (Statement, Exhibit 3). However, the Board agrees with OP that the dwelling is not so small as to preclude a reasonably sized dwelling. (Exhibit 24). In addition, the business use

¹ The proposal does not qualify for special exception relief under § 223, because that provision limits the increase in lot occupancy to a maximum of 70 percent.

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contemplated is not a matter of right in this zone district, except as an accessory use permitted as a home occupation.

The Impact of the Proposed Project

20. Because the property is a corner lot, the proposed rear addition would be viewed along 17th Street as a side addition. The Board finds that the design of the addition would be compatible with other additions in the Mount Pleasant Historic District. (HPRB Report, Exhibit 7).
21. The proposed addition would be taller than other existing additions in the neighborhood. There is an existing deck at the adjacent property located at 1702 Kilbourne Place, which is owned by the party in opposition, Frank Agbro. There are also decks located at other nearby properties. However, the other decks are fairly low transparent structures which are located at the first floor level. (See, photos, Exhibits 5 and 8, and OP Report Aerial, Exhibit 24).
22. The Board agrees with the party in opposition that a tall enclosed structure at the second story level would have a “towering” effect and would result in Mr. Agbro’s property being “boxed in”.
23. The Board agrees with the party in opposition that the proposed addition would compromise the visibility in the alley, and could lead to potential safety problems.
24. The Board finds that the severity of the variance relief sought – a 20% increase to an existing non-conformity – is significant.

CONCLUSIONS OF LAW

The Board is authorized under § 8 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 799), as amended; D.C. Official Code § 6-641.07(g)(3)(2001), to grant variances from the strict application of the Zoning Regulations. As stated above, the applicant here seeks relief from the lot occupancy requirements and the rear yard requirements.

Under the three-prong test for area variances set out in 11 DCMR § 3103.2, an applicant must demonstrate that (1) the property has an exceptional size, shape, topography, or other extraordinary or exceptional situation or condition inherent in the property; (2) the applicant\owner will encounter practical difficulty if the Zoning Regulations are strictly applied; and (3) the requested variances will not result in substantial detriment to the public good or the zone plan. See *Gilmartin v. District of Columbia Bd. of Zoning Adjustment*, 579 A.2d 1164, 1167 (D.C. 1990). In order to prove “practical difficulties,” an applicant must demonstrate first,

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that compliance with the area restriction would be unnecessarily burdensome; and, second, that the practical difficulties are unique to the particular property. *Id.* at 1170.

As to the first prong, the Board finds that there is no exceptional condition at the property. Neither the size, shape, nor location of the lot is exceptional. (See, Findings of Fact 14 – 18). While the lot is a small, substandard lot, there are other similar lots in the nearby vicinity and in the Mount Pleasant Historic District, some of which have a shorter depth than Lot 87. The grandfathering provision of § 401.1 recognized the large number of nonconforming lots that would be created by virtue of adoption of the 1958 regulations and permitted the expansion of existing structures provided that all other area requirements were met. This prerequisite further indicates the Commission's assumption that a substandard lot would not render zoning compliance impracticable.

Since this application fails because it does not satisfy the first prong of the variance test, the application must be denied. However, even were the Board to find that the small size of the lot was exceptional, as explained below, the application would not satisfy the second or third prong of the test.

As to practical difficulty, the applicant has not met its burden in showing that the size of the lot constrains his ability to design an interior dining room space. As noted in the Findings of Fact, the Board agrees with OP and recognizes that, while the dwelling is small, it is still possible to design a reasonable home. (Finding of Fact 19) Simply put, an increase in lot occupancy and expansion of the footprint into the rear yard may be desirable, but it is unnecessary.

Turning to the third prong of the variance test, the Board concludes that the addition would result in a substantial detriment to the public good and to the zone plan. The addition at the second floor level would undoubtedly affect Mr. Agbro's enjoyment of his property. However, any "towering" would affect the public as well, and could also compromise visibility in the alley, leading to potential safety problems in the community. (Findings of Fact 22 and 23). Finally, the Board agrees with OP, that a lot occupancy of almost 89%, would impair the intent of the zone plan. The Court of Appeals has held that the severity of the variance requested is a factor to be considered when assessing a variance application. *Gilmartin, Id.*, at 1171. As stated previously, the applicant seeks to increase the lot occupancy from 67% to over 88%. The Board considers the severity of the relief to be significant, and a factor which mitigates against approval.

ANC Issues and Concerns

Section 13(b) (d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10 (d)(3)(A)) requires that the Board's written orders give "great weight" to the issues and concerns raised in the recommendations of the affected ANC. Specifically:

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The written rationale of the decision shall articulate with particularity and precision the reasons why the Commission does or does not offer persuasive advice under the circumstances. In so doing, the government entity must articulate specific findings and conclusions with respect to each issue and concern raised by the Commission. Further, the government entity is required to support its position on the record.

In this case, there were no specific issues and concerns raised by the ANC to give great weight to. A simple recommendation of approval does not suffice. For this same reason, the assertion of ANC Vice-Chair of a purported change in the ANC's position is irrelevant. In addition, the great weight requirement relates only to the ANC's written report, and not to its oral comments. *Neighbors United For a Safer Community v. Bd. of Zoning Adjustment*, 647 A.2d. 793 (D.C. 1994).

Therefore, for the reasons stated above, it is hereby **ORDERED** that the application is hereby **DENIED**.

VOTE: **3-0-2** (Marc D. Loud, Shane L. Dettman, and Michael G. Turnbull
to DENY; two Board members not participating (vacancies))

Vote taken on May 12, 2009

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

Each concurring member has approved the issuance of this Decision and Order.

FINAL DATE OF ORDER: DECEMBER 1, 2009

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.