

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18003 of The Cato Institute, pursuant to 11 DCMR §§ 3104.1 and 3103.2, for a special exception from the loading requirements under subsections 2201.1 and 2202.2, and a variance from the rear yard requirements under section 774, to allow the construction of an expansion to the Cato Institute's headquarters office building in the DD/C-2-C District at premises 1000 Massachusetts Avenue, N.W. and 1012 10th Street, N.W. (Square 342, Lots 57 and 58).

HEARING DATE: December 1, 2009
DECISION DATE: December 1, 2009 (Bench Decision)

SUMMARY ORDER

SELF CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 5).

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) 2F and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2F, which is automatically a party to this application. According to the Office of Planning and the Applicant, the ANC 2F's Community Development Committee unanimously voted to approve the application on October 28, 2009 and the full ANC also voted unanimously in support of the application on November 4, 2009. Nonetheless, the ANC did not file a report, nor appear or give testimony at the hearing. OP submitted a timely report recommending approval of the application.

(Exhibit 23). The only other comments received from other government agencies came from the Fire and Emergency Medical Services Department (FEMS), which had no objection to the application. (Exhibit 23).

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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 a variance from the rear yard requirements under section 774. Based upon the record before the Board and having given great weight to the OP report filed in this case, the Board concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2 and 774, that there exists an exceptional or extraordinary situation or condition related to the property that creates an undue hardship 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.

In addition, 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 special exception under subsections 2201.1 and 2202.2. 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.

Based upon the record before the Board and having given great weight to the OP report¹, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1, 2202.2 and 2201.1, 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 9 – Plans) be **GRANTED**.

VOTE: **4-0-1** (Shane L. Dettman, Marc D. Loud, Meridith H. Moldenhauer, Konrad W. Schlater to APPROVE. One Board member not present, nor voting.)

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

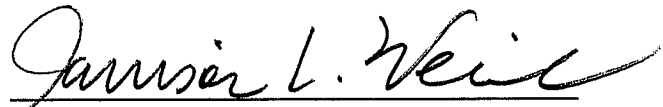
The majority of the Board members approved the issuance of this order.

¹ While the record reflects that the ANC voted to support the application, the Board could not give the ANC's position great weight, as no ANC report was filed to which great weight could be given.

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ATTESTED BY:



JAMISON L. WEINBAUM

Director, Office of Zoning

FINAL DATE OF ORDER: DEC 29 2009

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.

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.

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, STATUS AS A VICTIM OF AN INTRAFAMILY OFFENSE, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY

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BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT
TO THIS ORDER.

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As Director of the Office of Zoning, I hereby certify and attest that on DEC 29, 2009, a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, 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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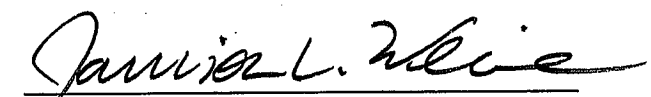
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ATTESTED BY:


JAMISON L. WEINBAUM
Director, Office of Zoning