

*Before the*

DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT

APPEAL OF: )  
Advisory Neighborhood Commission 6A for the )  
Administrative Decision of DCRA to issue )  
Building Permit # B1209455

**Statement of the Applicant**

Advisory Neighborhood Commission 6A (“ANC 6A”) hereby requests that the Board of Zoning Adjustment GRANT the Appeal from the administrative decision of the Department of Consumer and Regulatory Affairs Building and Land Use Regulation Administration’s approval of the Building Permit #B1209455 (“#B1209455”) at 1400 Maryland Ave NE and in support of its appeal states:

SUMMARY OF APPEAL

The Department of Consumer and Regulatory Affairs (“DCRA”) erred in its decision to grant #B1209455 on November 1, 2012. The property which is subject to this appeal is located at 1400 Maryland Ave NE (Square 1049, Lots 803 and 21) and is zoned HS-A/C-2-A. The requested reason is because DCRA issued the permit for the wrong zone (C-3-A) and did not require the applicant comply with 11 DCMR Subsections 1324.2 and 1324.10, which was required by the correct zone (HS-A/C-2-A).

DISCUSSION

One January 26, 2010, the Board of Zoning Adjustments issued BZA Order #17825 which granted a special exception to construct a gas station at 1400 Maryland Ave NE. The applicant applied for a building permit on May 31, 2011 and DCRA issued Building Permit #B1107494 on May 4, 2012 which stated:

Renovation and repair for existing vehicle fuel service station with BZA order #17825. Special exception granted 1/26/2010 pursuant to 2 exhibits No 60 & No. 66A with 12 conditions.

However, Building Permit #B1107494 did not include construction of a “grocery store”, which was the reason why the applicant applied for #B1209455 on May 29, 2012. That permit application stated it was for a:

1 level convenience store to be added to existing vehicle service station already permitted for under building permit no. B1107494. Originally the 1 level convenience store was part of the previous application and was approved by zoning, however, we removed it from the application because we had not been to the health department yet and needed to obtain our

building permit immediately.

And the text of the issued permit (#B1209455) stated:

Grocery store to be added to existing vehicle service station under separate building permit No. B1107494. Originally the 1 story store was part of the previous application, and was removed to become this permit.

DCRA erred in issuing #B1209455, because the zoning of the site changed from C-3-A to HS-A/C-2-A on December 9, 2011 as part of Zoning Commission case #10-19. The change of zoning did not impact #B1107494 because it was submitted to DCRA within two years of the issuance BZA Order #17825, in compliance with 11 DCMR §3130.1 which states:

No order authorizing the erection or alteration of a structure shall be valid for a period longer than two (2) years ...unless, within such period, the plans for the erection or alteration are filed for the purposes of securing a building permit, except as permitted in § 3130.6.

However, #B1209455 was applied for more than two years after the issuance BZA Order #17825, and the applicant did not request an extension of the Board Order according to §3130.6. As a result, the Board Order was expired when the applicant applied for #B1209455, and the building permit should have been evaluated under a HS-A/C-2-A zone rather than a C-3-A zone. Properties in HS-A/C-2-A zones are subject to design requirements §1324.2 and §1324.10, which state:

Buildings shall be designed and built so that not less than seventy-five percent (75%) of the streetwall(s) to a height of not less than twenty-five feet (25 ft.) shall be constructed to the property line abutting the street right-of-way. Buildings on corner lots shall be constructed to both property lines abutting public streets. (§1324.2)

and

Each commercial use with frontage on H Street, N.E., Florida Avenue, N.E., Maryland Avenue, N.E., 13th Street N.E., 14th Street, N.E., or 15th Street, N.E. shall have an individual public entrance directly accessible from the public sidewalk. Multiple-dwellings shall have at least one (1) primary entrance on H Street directly accessible from the sidewalk. (§1324.10)

The building plans clearly show that the proposed structure does not comply with either of these sections.

#### REQUEST FOR RELIEF

The appellant requests that the Board ORDER the Department of Consumer and Regulatory Affairs to revoke Building Permit #B1209455, because DCRA incorrectly granted the permit for a C-3-A zone, when the controlling zone is HS-A/C-2-A.