

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18555 of Jemal's Prospect's LLC, pursuant to 1.1 DCMR § 3104.1, for a special exception to change nonconforming uses to yoga studio, yoga apparel, and yoga accessories uses under § 2003.1 of the Zoning Regulations, in the R-3 District at premises 3343 Prospect Street, N.W. (Square 1220, Lot 30).

HEARING DATE: June 4, 2013

DECISION DATE: June 4, 2013

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 6.)

The Board of Zoning Adjustment (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") 2E, and to owners of property within 200 feet of the site. The site is located within the jurisdiction of ANC 2E, which is automatically a party to this application. ANC 2E submitted a letter, dated May 3, 2013, indicating that at a duly noticed public meeting at which a quorum was present, the ANC voted unanimously (5:0) in support of the application, subject to conditions. (Exhibit 24.) The Office of Planning ("OP") submitted a report in support of the application, subject to one condition. (Exhibit 27.) The District Department of Transportation ("DDOT") also submitted a report recommending approval of the application. (Exhibit 22.)

The Applicant initially requested approval for "yoga studio, apparel, accessories, home goods and furnishings use." However, at the request of ANC 2E, the Applicant amended the proposed uses to "yoga studio, yoga apparel, and yoga accessories" uses, which are first permitted as a matter-of-right in the C-2 District pursuant to §§ 701.1 (j) ("Group Instruction Center or Studio") and 701.5 (other "service or retail" uses) of the Zoning Regulations.

3343 Prospect Street, N.W. is the official address of record for Square 1220, Lot 30. However, as shown on the site plan included as Exhibit C of the Applicant's Prehearing Statement marked as Exhibit 26 of the record, the requested relief applies to: (i) a vacant 1,246 square foot space last used for "office and display of interior decorating" pursuant to Certificate of Occupancy No. B93857; (ii)

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BOARD OF ZONING ADJUSTMENT
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EXHIBIT NO. 32

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a vacant 519 square foot space last used for "office space" pursuant to Certificate of Occupancy No. CO30195; and (iii) an existing 616 square foot hair salon space.

Special Exception Relief:

As directed by 11 DCMR § 3119.2, the Board 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 § 2003.1. No parties appeared at the public hearing in opposition to the 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 filed in this case, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR § 3104.1, 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 requirements of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

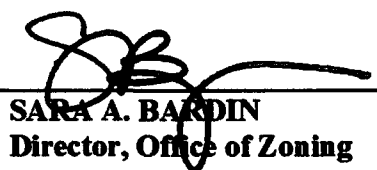
It is therefore **ORDERED** that the application is hereby **GRANTED, SUBJECT TO THE FOLLOWING CONDITION:**

1. The approved hours for the uses are between 7:00 a.m. and 9:30 p.m. on Monday through Friday, and between 9:00 a.m. and 9:30 p.m. on Saturday and Sunday.

VOTE: 4-0-0 (Lloyd L. Jordan, S. Kathryn Allen, Jeffrey L. Hinkle, and Peter G. May to Approve; one Board seat vacant.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
A majority of the Board members approved the issuance of this order.

ATTESTED BY:


SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: June 12, 2013

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 SIX MONTHS AFTER IT BECOMES EFFECTIVE UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD.

PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

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.