

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18952 of Daniel Fields, pursuant to 11 DCMR § 3103.2 for a use variance to allow a four-unit apartment house in a former one-family detached dwelling in the R-1-B District at premises 7100 Blair Road, N.W. (Square 3189, Lot 800).

HEARING DATES: March 17, 2015 and April 14, 2015
DECISION DATE: April 14, 2015

DISMISSAL ORDER

This application was submitted to the Board of Zoning Adjustment (“Board” or “BZA”) on January 6, 2015 by Daniel Fields, (the “Applicant”), the owner of the property that is the subject of the application. The Applicant sought variance relief from the use provisions of § 201 of the Zoning Regulations to allow a multiple dwelling in an R-1-B zone. Following two public hearings during which the Applicant failed to appear, the Board voted to dismiss the application.

PRELIMINARY MATTERS

Referral by the Zoning Administrator

The application was referred to the Board by the Zoning Administrator (“ZA”) of the District Department of Consumer and Regulatory Affairs (DCRA). (Exhibit 3.) The relief sought – relief from the use provisions of § 201 – was consistent with the relief recommended by the ZA.

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”) 4B, and the District of Columbia Office of Planning (“OP”).

Posting. Pursuant to 11 DCMR §§ 3113.14 through 3113.20, the Applicant is required to post placards at the property regarding the application and the public hearing. There is nothing in the

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record regarding the posting. However, based upon participation by the neighbors and ANC in this case, the Board is satisfied that the neighbors received actual notice of the application.

ANC 4B

The subject site is located within the jurisdiction of ANC 4B, which is automatically a party to this application. By letter dated February 24, 2015, ANC 4B indicated that at a properly noticed meeting on the same date with a quorum present, the ANC voted to adopt a resolution recommending denial of the application. In its resolution, the ANC noted that the proposed apartment house conflicted with the character of the neighboring one-family dwellings; and also noted that there was significant neighborhood opposition to the proposal.

Request for Party Status

The Board received and granted a request for combined party status from four residents of the 7100 block of Piney Branch Road: Sara Green and Richard Holzsager of 7106 Piney Branch Road, and Loretta Neumann and Daniel Smith of 7124 Piney Branch Road. (Exhibit 24.) The Party Opponents claimed that granting the proposal would alter the character of the neighborhood and the Takoma Park Historic District.

Letters in Support/Opposition

No letters in support were received on behalf of the Applicant. However, the Board received eight letters in opposition from neighboring property owners. (Exhibits 21, 25, 27, 29-32, and 35.)

OP Report

By its report dated March 10, 2015, OP recommended denial of the application. (Exhibit 26.) OP explains that the work to convert the structure into four dwelling units had been completed before the application for zoning relief was filed with the Board. While the Applicant claims the conversion to four units was authorized by DCRA, OP points out that building permits issued by DCRA were for exterior work only, and did not authorize interior work creating the four units. OP states further that the Applicant has provided no documentation that would establish its claim of DCRA's authorization. OP also states that the Applicant has not established that the project would result in substantial detriment to the public good, or that the project would not result in substantial harm to the Zoning Regulations.

Department of Transportation ("DDOT")

DDOT made no recommendation regarding the application, but notes that a parking variance may be required for the proposed apartment house use. (Exhibit 34.)

FINDINGS OF FACT

1. The public hearing was first scheduled for March 17, 2015. However, the Applicant did not appear on that date, and the matter was rescheduled for April 14, 2015.
2. The Applicant failed to appear again on April 14, 2015.
3. The Applicant has provided no explanation for his failure to appear on either of the two dates.

CONCLUSIONS OF LAW

Pursuant to 11 DCMR § 3100.6, “the Board may dismiss an application or appeal if the applicant or appellant fails to appear at a hearing without explanation.” Because the Applicant failed to appear at two public hearings without any explanation, the Board voted to dismiss the application.

Accordingly, it is **ORDERED** that the application is **DISMISSED**.

VOTE: **4-0-1** (Lloyd J. Jordan, Marnique Y. Heath, Jeffrey L. Hinkle, and Robert E. Miller to Dismiss; 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: September 16, 2015

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.