GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 17274 of Mario Alas and Haydee Vanegas, pursuant to 11 DCMR § 3103.2, for a variance from the floor area ratio requirements under section 771, a variance from the rear yard requirements under section 774, and a variance from the off-street parking requirements under subsection 2101.1, to allow a two story addition to an existing one-story restaurant (office space proposed on the top floor) in the C-2-A District at premises 6303 Georgia Avenue, N.W. (Square 2978, Lot 41).

HEARING DATES: January 25, 2005, March 29, 2005, September 13, 2005
DECISION DATE: September 13, 2005

DISMISSAL ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum from the Zoning Administrator certifying the required relief.

BACKGROUND

The subject application was filed with the Board of Zoning Adjustment (Board) on November 12, 2004. Pursuant to 11 DCMR 3113.3, notice of the January 25, 2005 public hearing was sent to the applicant, all owners of property within 200 feet of the subject site, the Advisory neighborhood Commission (ANC) 4B and the District of Columbia Office of Planning (OP). The applicants did not post placards at the property regarding the application and public hearing and as such did not submit an affidavit to the Board to this effect. By letter (Exhibit 21) dated January 12, 2005, the applicant requested that the Board postpone the January 25, 2005, hearing until a later date. The Board granted the applicant's request. The postponement date was set for March 29, 2005.

By letter (Exhibit 22) dated March 18, 2005, the applicants requested a postponement of the rescheduled March 29, 2005, hearing. This was the second postponement requested by the applicants. On March 29, 2005, as a preliminary matter, and without the applicants presence, the Board granted the request for postponement of the hearing and rescheduled the hearing to September 13, 2005. The Board instructed the applicants to be ready to proceed with their application on September 13, 2005. The Office of Zoning advised the applicants by letter (Exhibit 23) of the Board's action.

BZA
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EXHIBIT No. 25
Board of Zoning Adjustment
District of Columbia
CASE NO. 17274
EXHIBIT NO. 25

By letter dated September 1, 2005, the applicants wrote the Board stating, "I need to postpone(ment) the hearing date Tuesday, September 13, 2005, please reschedule." No further reasons for the postponement were given in the letter. On September 13, 2005, the Board considered the applicant's third request for postponement of the hearing. The Board denied the requested postponement. The applicants did not appear before the Board ready to at proceed with the hearing. As such, the Board dismissed the application for failure to prosecute.

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 **DISMISSED.**

Applicant's Motion to Reschedule the September 13, 2005 Public Hearing:

VOTE: **4-0-1** (Geoffrey H. Griffis, Ruthanne G. Miller, Curtis L. Etherly, Jr. and John A. Mann II, to deny the motion, the Zoning Commission member not present, not voting).

Board's Motion to Dismiss the Application:

VOTE: **4-0-1** (Geoffrey H. Griffis, Curtis L. Etherly, Jr., Ruthanne G. Miller and John A. Mann II to approve the motion, the Zoning Commission member not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
Each concurring member approved the issuance of this order.

ATTESTED BY: _____
JERRILY R. KRESS, FAIA
Director, Office of Zoning

FINAL DATE OF ORDER: SEP 15 2005

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." rsn

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 17274

As Director of the Office of Zoning, I hereby certify and attest that on SEP 15 2005 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:

Mario E. Alas
Haydee Vanegas
1737 Hobart Street, N.W.
Washington, D.C. 20009-2907

Chairperson
Advisory Neighborhood Commission 4B
6856 Eastern Avenue, N.W. #314
Washington, D.C. 20012

Commissioner 4B03
Advisory Neighborhood Commission 4B
6856 Eastern Avenue, N.W. #314
Washington, D.C. 20012

Adrian Fenty, City Councilmember
Ward Four
1350 Pennsylvania Avenue, N.W.
Suite 506
Washington, D.C. 20004

Zoning Administrator
Building and Land Regulation Administration
Department of Consumer and Regulatory Affairs
941 N. Capitol Street, N.E.
Washington, D.C. 20002

Ellen McCarthy, Interim Director
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801 North Capitol Street, N.E.

4th Floor
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Alan Bergstein, Esq.
Office of the Attorney General
441 4th Street, N.W., 6th Floor
Washington, D.C. 20001

rsn

ATTESTED BY:

JERRILY R. KRESS, FAIA
Director, Office of Zoning