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ID	Status	Register Category	Subject	Register Issue	Action Date
157060	Submitted to ODAI	Proposed Rulemaking	Zoning Commission Notice of Proposed Rulemaking: Case No. 09-13 (BZA Expedited Review Process)	2/5/2010 Vol 57/6	2/1/2010 21:04:52

ZONING COMMISSION
District of Columbia

CASE NO. 09-13
EXHIBIT NO. 19

ZONING COMMISSION
District of Columbia
CASE NO.09-13
EXHIBIT NO.19

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PROPOSED RULEMAKING
Z.C. Case No. 09-13
(Text Amendment – 11 DCMR)
BZA Expedited Review Process

The Zoning Commission for the District of Columbia, pursuant to its authority under § 8 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 799, D.C. Official Code § 6-641.07), hereby gives notice of its intent to amend the Board of Zoning Adjustment Rules of Practice and Procedure, Chapter 31 of DCMR Title 11. The Commission proposes to amend § 3113 and add a new § 3118 to allow the Board of Zoning Adjustment to decide certain types of applications without a hearing, if the applicant waives that right, and if certain persons or entities do not object.

Final rulemaking action shall be taken in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The proposed amendments are as follows:

DCMR Title 11, ZONING, Chapter 31, BOARD OF ZONING ADJUSTMENT RULES OF PRACTICE AND PROCEDURE, is amended as follows:

1. Section 3113, PRE-HEARING PROCEDURES FOR APPLICATIONS, § 3113.1 is amended by inserting the phrase “and to applications processed under the expedited review procedures to the extent specified in § 3118”, so that the subsection will read as follows.

3113.1 The rules of procedure in this section apply to all applications filed with the Board (including applications filed pursuant to §§ 3107 and 3108 in effect prior to October 1, 1999, and §§ 3103 and 3104); provided, however, the provisions of this section only apply to chancery applications to the extent specified in § 3134 and to applications processed under the expedited review procedures to the extent specified in § 3118.
2. A new section 3118, EXPEDITED REVIEW, is added to read as follows:

3118 EXPEDITED REVIEW

3118.1 The purpose of this section is to create an expedited review process to be followed after an applicant waives their right to a hearing for an eligible application.

3118.2 An eligible application is an application for:

(a) An addition to one-family dwelling or flat or new or enlarged accessory structures pursuant to § 223; or

- (b) A park, playground, swimming pool, or athletic field pursuant to § 209.1.
- 3118.3 Subject to the removal process described in §§ 3118.6 and 3118.7, an eligible application that includes a waiver of hearing will be placed on an expedited review calendar and decided without hearing at the Board's next regularly scheduled session after:
 - (a) The completion of the public notice procedures set forth in § 3118.4; and
 - (b) The completion of the ANC review period of thirty (30) days from the date it receives notice of the application, excluding Saturdays, Sundays, and holidays, plus an additional fourteen (14) calendar days.
- 3118.4 Notice of expedited review shall be given in the same manner and include the same information as required by §§ 3113.12 through 3113.16, except that references to "public hearing" or "hearing" shall mean "expedited review" and all other requirements of § 3113 shall apply with the same proviso.
- 3118.5 The public notice of an expedited review and the ANC notice of an application requesting expedited review shall also indicate:
 - (a) The procedure for requesting the removal of the application from the expedited review calendar as described §§ 3118.6 and 3118.7; and
 - (b) That the only public notice of the hearing date for a removed application will be the posting of that date in the Office of Zoning beginning on the date that the application was removed and continuing until the date of such hearing.
- 3118.6 An application tentatively placed on an expedited review calendar will be removed and rescheduled for a hearing:
 - (a) At the oral or written request of a Boardmember made at any time prior to the vote on the application;
 - (b) Upon the receipt of a timely filed request for party status in opposition to the application; or
 - (c) At the written request of the following persons or entities, if filed with the Office of Zoning no later than fourteen (14) days prior to the date that the expedited review is scheduled:

- (1) The Office of Planning;
 - (2) The affected ANC(s) or affected Single Member District(s);
 - (3) The Councilmember representing the area in which the subject property is located or representing an area located within two-hundred feet (200 ft.) of the subject property; or
 - (4) The owner or occupant of any property located within two-hundred feet (200 ft.) of the subject property.
- 3118.7 A request to remove made pursuant to § 3118.6 (c) (2) through (4) shall be accompanied by statement indicating that the requester, or the requester's representative, intends to appear as a witness at the hearing and shall also include a summary of the testimony to be given at that time.
- 3118.8 The Chair may deny a request to remove an application if the proffered testimony is irrelevant.
- 3118.9 Orders granting an application approved by expedited review need not contain findings of facts or conclusions of law, but shall reflect the nature of the relief granted and any conditions imposed.

All persons desiring to comment on the subject matter of this proposed rulemaking action should file comments in writing no later than thirty (30) days after the date of publication of this notice in the D.C. Register. Comments should be filed with Sharon Schellin, Secretary to the Zoning Commission, Office of Zoning, 441 4th Street, N.W., Suite 200/210-S, Washington, D.C. 20001. Copies of this proposed rulemaking action may be obtained at cost by writing to the above address.