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410327	Submitted to ODAI	Proposed Rulemaking	Zoning Commission Notice of Proposed Rulemaking: Case No. 09-13 (BZA Expedited Review Process - Technical Correction to Section 3118)	6/18/2010 Vol 37/25	6/15/2010 14:22:54
407805	Submitted to ODAI	Notices, Opinions	Board of Zoning Adjustment Order No. 17109-B	6/18/2010 Vol 37/25	6/15/2010 10:34:33
406932	Submitted to ODAI	Notices, Opinions	Zoning Commission Order No. 06-11B/06-12B (The George Washington University - Order on Remand)	6/18/2010 Vol 37/25	6/14/2010 17:17:16
405962	Submitted to ODAI	Public Hearing	Board of Zoning Adjustment Public Hearing Notice for September 21, 2010	6/18/2010 Vol 37/25	6/11/2010 14:16:51

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ZONING COMMISSION
District of Columbia
CASE NO. 09-13
EXHIBIT NO. 23

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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 - Technical Correction to § 3118

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 make technical changes to § 3118 so as to better differentiate between those persons and entities whose requests to remove an item from the expedited calendar will result in the automatic removal of the item and those persons and entities whose requests will be granted only if the Presiding Officer finds that their proffered testimony is relevant to the application. Because this change is technical in nature, the Commission will not be holding a public hearing on this application, as is allowed under Consent Calendar procedures set forth at 11 DCMR § 3030. Nor will these amendments be referred to the National Capital Planning Commission, both because of the technical nature of the changes and also because the amendments are to procedural rules.

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*.

DCMR Title 11, ZONING, Chapter 31, BOARD OF ZONING ADJUSTMENT RULES OF PRACTICE AND PROCEDURE, § 3118, EXPEDITED REVIEW, is proposed to be amended by:

- (1) Striking references in § 3116.6 to those persons and entities whose requests to remove an item will not automatically be honored;
- (2) Re-designating the text of § 3118.7 as § 3118.8 and renumbering the remaining provisions;
- (3) Replacing the text moved from § 3118.7 with text that lists those persons and entities whose requests to remove an item will not be automatically honored;
- (4) Revising the text in renumbered § 3118.8 to set forth the time for making those requests (as formerly stated in § 3118.6 (c)); and
- (5) Revising the text in renumbered § 3118.9 to clarify that the only basis for the Presiding Officer to grant or deny a non-automatic request is whether the proffered evidence is relevant to the Board's consideration of the application.

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If these revisions are made, § 3118 would 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 its 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 is 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 Board member 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 Office of Planning, if filed with the Office of Zoning no later than fourteen (14) days prior to the date that the expedited review is scheduled.
- 3118.7 An application tentatively placed on an expedited review calendar also will be removed and rescheduled for a hearing if requested by the following entities or persons in accordance with § 3118.8, unless the request is denied by the Presiding Officer pursuant to § 3118.9:
- (a) The affected ANC(s) or affected Single Member District(s);
 - (b) 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
 - (c) The owner or occupant of any property located within two-hundred feet (200 ft.) of the subject property.
- 3118.8 A request to remove made pursuant to § 3118.7 shall:
- (a) Be filed with the Office of Zoning no later than fourteen (14) days prior to the date that the expedited review is scheduled;
 - (b) Be accompanied by a statement indicating that the requester, or the requester's representative, intends to appear as a witness at the hearing; and
 - (c) Shall include a summary proffer of the testimony to be given at that time.
- 3118.9 The Presiding Officer shall grant a request to remove an application made pursuant to § 3118.7 unless the proffered testimony is irrelevant, in which case the request shall be denied.

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3118.10 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.