

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



**Civil Infraction Appeal No. 03-0002 (03-OAD-2800G & 03-OAD-2801G)** of James McRae v. Department of Consumer and Regulatory Affairs for storage of vehicles without a certificate of occupancy permit in the R-4 District at premises rear of 3213 11<sup>th</sup> Street, N.W. (Square 2845, Lot 813).

**HEARING DATE(S):** March 8, 2005, May 17, 2005

**DECISION DATE:** May 17, 2005

**DISMISSAL ORDER**

This application was filed with the Office of Zoning (OZ) on January 29, 2004. The application was originally scheduled to be heard by the Board of Zoning Adjustment (Board) on March 8, 2005. On March 4, 2005, counsel for the Department of Consumer and Regulatory Affairs (DCRA) filed a Motion to Dismiss the Appeal. On March 8, 2005, the Appellant requested that the Board grant a continuance of the hearing citing his absence of legal counsel. The Appellant stated that he only recently discovered that his attorney was no longer representing him. The Board agreed to the request for postponement, and rescheduled the hearing to May 17, 2005. The Board felt that the additional time allowed by the continuation date would give the Appellant adequate time to secure a new attorney and to submit supplemental information into the record by April 26, 2005. Having granted the postponement of the March 8, 2005 hearing; the Board held DCRA's Motion for Dismissal in abeyance until the May 17, 2005 hearing. Several Board members expressed that the Appellant had not been diligent in pursuing his appeal and found it very unusual that the Appellant would not know that his attorney has stopped representing him approximately eight months earlier. The Board members further expressed their reluctance to support another request for continuance.

On April 26, 2005, the Appellant's newly obtained counsel filed a Motion for Enlargement of Time with the Board. On May 10, 2005, counsel for DCRA filed a Motion in Opposition to Appellant's Motion for Enlargement of Time and Supplemental Appellee's Motion to Dismiss with prejudice.

On May 9, 2005, the newly obtained counsel for the Appellant filed a letter with the Board seeking an extension of time to file the necessary briefs requested by the Board at the March 8, 2005 hearing and further noted that he would be out of the Jurisdiction (town) on May 17, 2005, the day of continuation hearing. On May 17,

2005, the Board deliberated on the above and found that the Appellant failed to comply with the procedural requirements of the Zoning Regulations.

In light of the foregoing, the Board hereby **ORDERS** that the Motion of the Appellant for an Enlargement of Time and Continuation of the Hearing is **DENIED**. The Board further **ORDERS** that DCRA's Motion to **DISMISS** the Appeal with Prejudice be **GRANTED**.

**Vote on Motion for Enlargement of Time and Continuation of Hearing:**

**5-0-0** (Curtis L. Etherly, Jr., Anthony J. Hood, Geoffrey H. Griffis, Ruthanne G. Miller, and John A. Mann II to deny the Motion of the Appellant for an Enlargement of Time and Continuation of the Hearing).

**Vote on DCRA's Motion to Dismiss the Appeal with Prejudice:**

**5-0-0** (Ruthanne G. Miller, Geoffrey H. Griffis, Curtis L. Etherly, Jr., Anthony J. Hood and John A. Mann II to dismiss the appeal with prejudice).

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

Each concurring member has approved the issuance of this Order.

ATTESTED BY: \_\_\_\_\_

  
**JERRILY R. KRESS, FAIA**  
Director, Office of Zoning 

**FINAL DATE OF ORDER: MAY 25 2005**

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL. rsn

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



**BZA CIVIL INFRACTION APPEAL NO. 03-0002**

As Director of the Office of Zoning, I hereby certify and attest that on MAY 25 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:

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rsn

ATTESTED BY:

  
\_\_\_\_\_  
JERRILY R. KRESS, FAIA  
Director, Office of Zoning