

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Appeal No. 15453 of Tyrus D. Barre, pursuant to 11 DCMR 3105.1 and 3200.2, from the decision of Joseph Bottner, Zoning Administrator made on October 15, 1990 to the effect that the poolhouse structure authorized by Building Permit No. 49014971 complies with the Zoning Regulations, for a single-family dwelling in an R-1-A District at premises 4524 Garfield Street, N.W., (Square 1339, Lot 811).

HEARING DATE: February 20, 1991
DECISION DATE: March 6, 1991

DISPOSITION: The Board **GRANTED** the appeal by a vote of 3-0 (John G. Parsons, Paula L. Jewell and Charles R. Norris to grant; Sheri M. Pruitt and Carrrie L. Thornhill not voting, not having heard the case)

FINAL DATE OF ORDER: June 28, 1991

ORDER

The Board granted the appeal by its Order dated June 28, 1991. On August 27, 1991, counsel for the intervenor filed a motion to stay the effect of the Board's final Order and enforcement pending intervenor's petition for review in the D.C. Court of Appeals. In support of the motion for stay, counsel for the intervenor argued that the intervenor would suffer irreparable injury if the relief were not granted; that the granting of the relief would not cause irreparable injury to any party or person; that the public interest would be best served by the granting of the relief; and that there is a substantial case on the merits with respect to the ultimate approval of the pending petition for review.

On September 4, 1991, counsel for the appellant requested the Board to delay consideration of the motion to stay. The basis for the request was that counsel was on vacation when the motion was served and did not have adequate time to respond to the motion after actual service occurred. The Board granted the request to delay consideration of the motion at its public meeting of September 4, 1991.

On September 9, 1991, counsel for the appellant submitted a response in opposition to the motion to stay. Counsel for the appellant argued that the equities in the subject case do not heavily favor the intervenor; that the owners did not demonstrate good faith by beginning construction without proper permits; that the intervenor continued construction with the knowledge that the legality of the structure was in question; and that the intervenor has not demonstrated that there is a substantial case on the merits in the pending petition for review.

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Upon consideration of the motion to stay and the response thereto, the Board concludes that counsel for the intervenor has failed to demonstrate entitlement to a stay of the effectiveness of the Board's Order. The Board notes that, in the event that the Court of Appeals finds that the petition does present a substantial showing of likelihood of success of the pending petition, then the Court would be the appropriate entity to grant the requested stay. Accordingly, it is hereby ORDERED that the motion to STAY is DENIED.

DECISION DATE: October 2, 1991

VOTE: 3-0 (Charles R. Norris and Paula L. Jewell to deny; John G. Parsons to deny by proxy; Sheri M. Pruitt and Carrie L. Thornhill not voting, not having heard the case).

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

ATTESTED BY:



MADELIENE H. ROBINSON
Acting Director

FINAL DATE OF ORDER: NOV 20 1991

UNDER 11 DCMR 3103.1, "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 BEFORE THE BOARD OF ZONING ADJUSTMENT."

ord15453/LJP

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



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As Acting Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a copy of the Order in this application/appeal dated NOV 20 1991 has been mail postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and to is listed below:

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MADELIENE H. ROBINSON
Acting Director

DATE: NOV 20 1991