

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Board of Zoning Adjustment**



**Application No. 17364-A of CIH/VMS Restorations LLC**, pursuant to 11 DCMR §3104.1, for a special exception to allow the construction of five (5) single-family row dwellings and two (2) single-family semi-detached dwellings under Section 353, and pursuant to 11 DCMR §3103.2, for a variance to allow one parking space in the front yard of each dwelling under subsection 2116.2, in the R-5-A District at premises 2300 block of Skyland Terrace, S.E. (Square 5740, Lot 852).

**HEARING DATE:** October 11, 2005  
**DECISION DATE:** October 11, 2005 (Bench Decision)  
**MODIFICATION DECISION DATE:** February 27, 2007

**SUMMARY ORDER ON REQUEST FOR  
MINOR MODIFICATION/CLARIFICATION OF APPROVED PLANS<sup>1</sup>**

**SELF-CERTIFIED**

The zoning relief requested in this case was self-certified pursuant to 11 DCMR §3113.2.

**BACKGROUND**

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission ("ANC") 8B and to owners within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 8B, which is automatically a party to this application. ANC 8B did not participate in the hearing. The Office of Planning (OP) submitted a report in support of the application.

By Summary Order dated October 11, 2005, the Board approved Application No. 17364, of CIH/VMS Restorations LLC ("Applicant"), including the Site Plan and other plans submitted with that application.

**THE WAIVER REQUEST**

As part of its modification/clarification filing, the Applicant requested a waiver from the six-month limitation for filing requests for modification of plans with the Board, as set

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<sup>1</sup> This Order is an addendum to Board of Zoning Adjustment Order No. 17364. All provisions of Order No. 17364 remain in effect except as specifically modified/clarified herein.

forth in §3129.3 of the Zoning Regulations. The Board granted the waiver of the filing requirement to consider the requested modification/clarification, finding good cause and no prejudice to any party. OP and ANC 8B did not submit any comments to the Board on the modification and waiver requests.

**REQUEST FOR MINOR MODIFICATION/CLARIFICATION OF APPROVED PLANS**

By letter dated February 16, 2007, the Applicant requested the Board to modify/clarify for the Zoning Administrator that the Board's Order and approved plans establish the applicable lot width and lot area requirements, including street frontage, in full compliance with the applicable Zoning Regulations. The Applicant, in accordance with the Board's approval, submitted to the Zoning Administrator a Subdivision Plat establishing the seven dwelling unit lots and "out parcel" lot. The Zoning Administrator, on or about February 12, 2007, determined that the "out parcel" Lot and Lots 1 and 2 shown on the approved Site Plan, BZA Exhibit 9-B, did not comply with the minimum street frontage requirements under 11 DCMR §401.6. As a result, the Zoning Administrator refused to approve the Subdivision Plat and informed the Applicant that a variance from §401.6 was required from the Board.

As a preliminary matter, the Board determined that the Applicant had complied with the ten (10) day notice and comment period required under 11 DCMR §3129.4. The Applicant's request for modification/clarification was served on the Chairperson of the ANC 8B and the Single Member District Commissioner 8B01 by hand-delivery on February 16, 2007 and all other parties, including the Office of Planning, were served electronically on the same day. As a result, the ten (10) day period began to run on February 17, 2007 (without the addition of three (3) additional days for mail service) and expired on Monday, February 26, 2007 (not an official holiday or weekend). Following expiration of the ten (10) day notice and comment period, the Board was authorized to take action on the requested modification/clarification.

The requested minor modification/ clarification makes no change to the approved plans and does not involve any change in the material facts relied upon by the Board in its approval. Based on the record, the Board determined that the proposed Subdivision Plat complies fully with the approval granted and the approved Site Plan in BZA Exhibit 9-B, including the applicable street frontage requirements established by the Board.

As part of the review of this application under §353, the Board specifically approved the Site Plan fully understanding that the Applicant intended and would be required to Subdivide the site into eight (8) lots. Under §401.3, the Board is required to establish the applicable minimum lot area and lot width, including street frontage. From the record, including the Office of Planning's report in support of the Application which specifically referenced the "layout of lots 1-3 and the limited street width and shared access" driveway and related easements, the Board established the applicable lot area, lot width and street

frontage requirements. As a practical matter, it would have been difficult for the Board to establish the required lot area and lot width without at the same time setting the required street frontage. In this case, §401.6 is not applicable and the proposed Subdivision Plat complies with the Board's order and all the applicable Zoning Regulations, including street frontage. Approval of the Subdivision Plat by the Zoning Administrator does not require any additional zoning relief.

Pursuant to 11 DCMR §3101.6 and 3129.1, 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 the MODIFICATION/CLARIFICATION of APPROVED PLANS (Exhibit 33 in the record) be GRANTED.**

**VOTE:**       **5-0-0** (Geoffrey H. Griffis, Ruthanne G. Miller, John A. Mann II, and Curtis L. Etherly, Jr. to approve; John G. Parsons to approve by absentee ballot)

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

Each concurring Board member has approved the issuance of this Order.

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

**JERRILY R. KRESS, FAIA**  
**DIRECTOR, OFFICE OF ZONING**

**FINAL DATE OF ORDER:**           MAR 15 2007          

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."

PURSUANT TO 11 DCMR §3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR §3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING

BUILDING OR. STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE §§ 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Board of Zoning Adjustment



**BZA APPLICATION NO. 17364-A**

As Director of the Office of Zoning, I hereby certify and attest that on MAR 15 2007, 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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**ATTESTED BY:**

  
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