

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



**Application No. 17509-A of Bernard L. Renard**, pursuant to 11 DCMR § 3103.2, for a variance from the lot area and lot width requirements under section 401, a variance from the lot occupancy requirements under section 403, a variance from the court area and width requirements under section 406, a variance from the nonconforming structure provisions under subsection 2001.3, and a variance from the accessory structure alley setback requirements under subsection 2300.2(b), to allow an addition to one of two row dwellings sharing the same lot proposed for subdivision in the R-4 District at premises 521-523 11<sup>th</sup> Street, S.E. (Square 973, Lot 67).

**Hearing Dates:** September 19, 2006, January 30, 2007,  
and May 22, 2007  
**Decision Date:** May 22, 2007  
**Final Date of Order:** June 11, 2007  
**Decision on Motion to Extend Order:** March 24, 2009

**ORDER ON MOTION TO EXTEND**  
**THE VALIDITY OF BZA ORDER 17509**

**The Underlying BZA Order**

On May 22, 2007, the Board approved the Applicant's request for a variance from the lot area and lot width requirements under section 401, a variance from the lot occupancy requirements under section 403, a variance from the court area and width requirements under section 406, a variance from the nonconforming structure provisions under subsection 2001.3, and a variance from the accessory structure alley setback requirements under subsection 2300.2(b) of the Zoning Regulations. Given that there were no opposing parties, the Board authorized a bench decision and summary order, which was issued on June 11, 2007 (BZA Order 17509).

Under the Summary Order, and pursuant to § 3130.1 of the Zoning Regulations, the Order was valid for two years from the time it was issued – until June 11, 2009.

Section 3130.1 states:

No order [of the Board] authorizing the erection or alteration of a structure shall be valid for a period longer than two (2) years, or one (1) year for an Electronic

**BZA APPLICATION NO. 17509-A**  
**PAGE NO. 2**

Equipment Facility (EEF), unless within such period, the plans for the erection or alteration are filed for the purposes of securing a building permit.

(11 DCMR § 3130.1)

**Motion to Extend**

On March 13, 2009, the Board received a letter from the Applicant indicating that it had not yet applied for a building permit, and that it would not be able to do so prior to June 11, 2009 when the Order was set to expire. According to the Applicant, the extension is sought because, despite numerous efforts, he has not been able to secure sufficient project financing which would allow the preparation of construction plans and the filing of the building permit application. The Applicant pointed out that the circumstances that he faces result from the current economic and market conditions which are beyond his control. The Applicant noted how the financing rules have changed, creating an economic crisis at this time. He stated that he would continue his efforts to finance his project and file for permits by the expiration of the extended term.

The Applicant served his request for an extension on the Office of Planning (OP) and Advisory Neighborhood Commission (ANC) 6B, the only party to the application. Neither OP nor the ANC submitted comments related to the request.

**Criteria for Evaluating Motion to Extend**

Section 3100.5 of the Regulations states in full:

Except for §§ 3100 through 3105, 3121.5 and 3125.4, the Board may, for good cause shown, waive any of the provisions of this chapter if, in the judgment of the Board, the waiver will not prejudice the rights of any party and is not otherwise prohibited by law.

(11 DCMR § 3100.5)

The Board finds that the Applicant has met the criteria set forth in this provision. The Applicant's inability to secure financing and the poor economic conditions in the District constitutes the "good cause" required under § 3100.5. The Board also finds that a waiver in this case would not prejudice the rights of any party and is not otherwise prohibited by law. Neither the ANC nor any nearby property owners objected to an extension of the Order; and as noted above, there were no opposing parties at the time the underlying Order was decided. Since granting the initial request for relief did not prejudice the rights of any party, the Board concludes that the extension of that relief, likewise, will not be prejudicial.

Accordingly, the Board hereby waives the limitation in § 3130.1 of the Regulations and extends the validity of the underlying Order for a period not to exceed two years from the current

expiration date, thereby establishing a new expiration date of June 11, 2011.

Pursuant to 11 DCMR § 3101.6, 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 this request for extension of time be **GRANTED** until June 11, 2011.

**VOTE:** 3-0-2 (Ruthanne G. Miller, Marc D. Loud, and Shane L. Dettman to approve; Mary Oates Walker not participating, not voting; no member of the Zoning Commission participating or voting)

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

Each concurring member approved the issuance of this order.

**ATTESTED BY:**

  
**RICHARD S. NERO, JR.**  
Acting Director, Office of Zoning

**FINAL DATE OF ORDER:** APR 08 2009

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

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

**BZA APPLICATION NO. 17509-A**  
**PAGE NO. 4**

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.

SG/TWR

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Board of Zoning Adjustment



**BZA APPLICATION NO. 17509-A**

As Director of the Office of Zoning, I hereby certify and attest that on APR 08 2009, 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:

Bernard Renard  
1012 East Capitol Street, N.E.  
Washington, D.C. 20003

Chairperson  
Advisory Neighborhood Commission 6B  
921 Pennsylvania Avenue, S.E.  
Washington, D.C. 20003

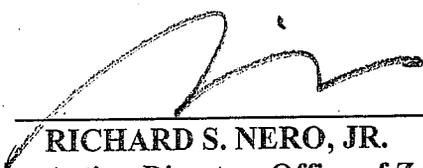
Single Member District Commissioner 6B04  
Advisory Neighborhood Commission 6B  
921 Pennsylvania Avenue, S.E.  
Washington, D.C. 20003

Tommy Wells, City Councilmember  
Ward Six  
1350 Pennsylvania Avenue, N.W., Suite 408  
Washington, D.C. 20004

Matthew LeGrant, Zoning Administrator  
Dept. of Consumer and Regulatory Affairs  
Building and Land Regulation Administration  
941 North Capitol Street, N.E., Suite 2000  
Washington, D.C. 20002

Bennett Rushkoff, Esquire  
Acting General Counsel  
Department of Consumer and Regulatory Affairs  
941 North Capitol Street, N.E., Suite 9400  
Washington, D.C. 20002

ATTESTED BY:

  
RICHARD S. NERO, JR.  
Acting Director, Office of Zoning

---

441 4<sup>th</sup> Street, N.W., Suite 200/210-S, Washington, D.C. 20001

Telephone: (202) 727-6311

Facsimile: (202) 727-6072

E-Mail: [dcöz@dc.gov](mailto:dcöz@dc.gov)

Web Site: [www.dcoz.dc.gov](http://www.dcoz.dc.gov)