

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Board of Zoning Adjustment



**Application No. 17691 of Ike R. Agbim**, pursuant 11 DCMR § 3103.2, for a variance from the lot width and area requirements under section 401, and a variance from the side yard requirements under section 405, to allow the construction of a one-family detached dwelling in the R-2 District at premises 324 59<sup>th</sup> Street, N.E. (Square 5264, Lot 41).

Note: The Applicant amended the application to include variances from the lot area and side yard requirements.

**HEARING DATE:** December 11, 2007  
**DECISION DATE:** December 11, 2007 (Bench Decision)

**SUMMARY ORDER**

**SELF-CERTIFIED**

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

The Board provided proper and timely notice of public hearing on this application, by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 7C, the Office of Planning (OP) and to owners of property within 200 feet of the site.

ANC - The site of the application is located within the jurisdiction of ANC 7C. The ANC submitted a letter (Exhibit 24) in opposition to the application. However, the ANC Chairperson testified that the ANC was under the mistaken impression that the application involved a different property, instead of Lot 41, and the concerns raised in the ANC report were not related to this property. Because the ANC report discussed the wrong property, the issues and concerns which it raised are not legally relevant, and not entitled to great weight. *See, Bakers Local Union 118 v. DC BZA, 437 A.2d 176 (D.C. 1981)*

OP - The OP submitted a report and testified at the public hearing in support to the application.

As directed by 11 DCMR § 3119.2, the Board required the applicant to satisfy the burden of proving the elements that are necessary to establish the case for a variance pursuant to 11 DCMR §§ 3103.2. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP report filed in this case, the Board concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2, 401, and 405, that there exists an exceptional or extraordinary situation or condition related to the property that creates an undue hardship for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

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. The waiver will not prejudice the rights of any party, and is not prohibited by law. It is therefore **ORDERED** that this application (pursuant to Exhibit 7 – Plans) be **GRANTED**.

**VOTE:** 3-0-2 (Marc D. Loud, Gregory N. Jeffries and Ruthanne G. Miller to approve, the NCPC representative and the third Mayoral appointee not present, not voting)

**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:** December 18, 2007

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.

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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. rsn

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



**BZA APPLICATION NO. 17691**

As Director of the Office of Zoning, I hereby certify and attest that on December 18, 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:

Ike Igbim  
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Largo, Maryland 20774

Chairperson  
Advisory Neighborhood Commission 7C  
1027 46<sup>th</sup> Street, N.E.  
Washington, D.C. 20019

Single Member District Commissioner 7C05  
Advisory Neighborhood Commission 7C  
1027 46<sup>th</sup> Street, N.E.  
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Yette M. Alexander, Councilmember  
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Washington, D.C. 20004

Matthew LeGrant, Zoning Administrator  
Building and Land Regulation Administration  
Department of Consumer and Regulatory Affairs  
941 N. Capitol Street, N.E.  
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Harriet Tregoning, Director  
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801 North Capitol Street, N.E.  
4<sup>th</sup> Floor  
Washington, D.C. 20002

rsn

ATTESTED BY:

  
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JERRILY R. KRESS, FAIA  
Director, Office of Zoning