

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



**Application No. 17855 of District of Columbia CVS Pharmacy LLC and The Velmeir Companies**, pursuant to 11 DCMR § 3103.2, for a variance from the parking requirements under subsection 2101.1, a variance from the loading requirements under § 2201.1, a variance from the location of accessory uses and buildings requirements under § 2500 to construct a CVS drug store in the GA (Georgia Avenue Commercial Overlay) /C-3-A District at premises 3642 & 3646 Georgia Avenue, N.W. (Square 2897, Lots 145 & 147).

**Note:** The application was amended to eliminate the request for special exception relief under subsection 1330.1(b) to allow development on a lot that has more than 12,000 sq. ft. of land area because it was determined that this area of relief was not needed for the project.

**HEARING DATE:** December 16, 2008  
**DECISION DATE:** December 16, 2008 (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 the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 1A and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1A, which is automatically a party to this application. ANC 1A submitted a report in support of the application. The Office of Planning (OP) also submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception under section 1330.1(b). No parties appeared at the public hearing in opposition to this 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 ANC and OP reports filed in this case, the Board concludes that in seeking variances from §§ 2101.1, 2201.1, and 2500, the applicant has met the burden of proving under 11 DCMR § 3103.2, that there

exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty 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 § 3100.5, 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 application, pursuant to Exhibit No. 27 - Prehearing Submission - is **GRANTED, SUBJECT** to the following **CONDITIONS**:

1. Loading may only be scheduled to take place between the hours of 8:00 a.m. and 7:00 p.m., Monday through Friday;
2. No loading activities may take place within the public streets of Georgia Avenue, New Hampshire Avenue and Princeton Place; and
3. Installation of the brick dumpster enclosures and landscaping shall be as shown on Sheet No. 6, titled "South Elevation" and dated November 25, 2008.

**VOTE:** 5-0-0 (Ruthanne G. Miller, Marc D. Loud, Mary Oates Walker, Shane L. Dettman and Michael G. Turnbull to approve)

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

Each concurring member approved the issuance of this order.

ATTESTED BY:

  
JERRILY R. KRESS, FAIA  
Director, Office of Zoning

FINAL DATE OF ORDER: DEC 19 2008

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 § 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.

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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.

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

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.

TWR

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As Director of the Office of Zoning, I hereby certify and attest that on **DECEMBER 19, 2008**, 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 who appeared and participated in the public hearing concerning the matter and to each public agency listed below:

Kyrus L. Freeman, Esq.  
Holland & Knight, LLP  
Suite 100  
2099 Pennsylvania Avenue, N.W.  
Washington, D.C. 20006

3642 Georgia LLC & 3646 Georgia LLC  
4326 8<sup>th</sup> Street, N.W.  
Washington, D.C. 20011

Chairperson  
Advisory Neighborhood Commission 1A  
P.O. Box 73325  
Washington, D.C. 20058

Single Member District Commissioner 1A08  
Advisory Neighborhood Commission 1A  
P.O. Box 73325  
Washington, D.C. 20058

Chairperson  
Advisory Neighborhood Commission 4C  
P.O. Box 60847  
Washington, D.C. 20039-0847

Jim Graham, Councilmember  
Ward One  
1350 Pennsylvania Avenue, N.W., Suite 105  
Washington, D.C. 20004

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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: [dcoz@dc.gov](mailto:dcoz@dc.gov)

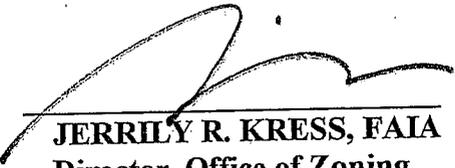
Web Site: [www.dcoz.dc.gov](http://www.dcoz.dc.gov)

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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:**

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

TWR