

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18094 of Lauriol Properties LLC Cactus Cantina, pursuant to 11 DCMR § 3104.1, for a special exception to allow a rear addition to a one-family row dwelling under section 223, not meeting the lot occupancy requirements (section 403), in the R-5-B District at premises 1778 T Street, N.W. (Square 152, Lot 62).

HEARING DATE: September 14, 2010
DECISION DATE: September 21, 2010

SUMMARY ORDER

SELF CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 6).

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”) 2B and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2B, which is automatically a party to this application. No report was filed by ANC 2B, nor did anyone from the ANC appear at the hearing to give testimony. However, the Applicant testified that he had presented the project to the ANC at an ANC meeting and that they were generally in support of the project. At the end of the hearing the Board left the record open for documentation of the ANC’s consideration of the project. The Applicant provided copies for the record of both the agenda and minutes from the ANC’s February 17, 2010 meeting as evidence that the Applicant presented his project at the meeting. The Applicant also provided documentation of the presentation before the Dupont Circle Conservancy which showed its support of the project. Finally, the Applicant provided a copy of the Historic Preservation Review Board staff report and recommendation which indicated staff approval of conceptual design review. (Exhibit 29). However, in the absence of a written report or testimony from the ANC, there was nothing to which the Board could give great weight. The Office of Planning (“OP”) submitted a timely report recommending approval of the application. (Exhibit 24).

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

Telephone: (202) 727-6311

Facsimile: (202) 727-6072

E-Mail: dcoz@dc.gov

Web Site: www.dcoz.dc.gov

The owner of the next door property at 1776 T Street, N.W., Mr. Thomas Tycz, testified at the hearing in support of the project.

A letter of opposition was received from LaVonne Poteet, who owns but does not reside at the property two doors from the Applicant's property. Ms. Poteet's letter indicated that she would not be able to attend the hearing, but requested that her letter be accepted into the record. (Exhibit 26). The Board accepted Ms. Poteet's letter into the record and considered the issues she raised that were relevant to the matters before the Board.¹

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 § 223, not meeting the lot occupancy requirements (§ 403). 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 OP report, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 223, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with 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 10 – Plans) be **GRANTED**.

VOTE: 4-0-1 (Meridith H. Moldenhauer, Michael G. Turnbull, Jeffrey L. Hinkle, and Nicole C. Sorg, by absentee vote, to APPROVE; the fifth Board member (vacant) not participating or voting.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
The majority of the Board members approved the issuance of this order.

ATTESTED BY: 
JAMISON L. WEINBAUM
Director, Office of Zoning

SEP 24 2010

FINAL DATE OF ORDER: _____

¹ In its deliberations the Board considered the issues which Ms. Poteet raised that were relevant to the relief being sought under § 223 and found that these were addressed by the Applicant.

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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.

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.

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As Director of the Office of Zoning, I hereby certify and attest that on September 24, 2010, 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:

Guillermo Rueda, AIA
SIRU Architects
1711 Connecticut Avenue, N.W., Suite 206
Washington, D.C. 20009-1139

Raul Sanchez
2924 Cleveland Avenue, N.W.
Washington, D.C. 20008

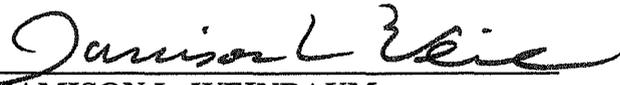
Chairperson
Advisory Neighborhood Commission 2B
9 Dupont Circle, N.W.
Washington, D.C. 20036

Single Member District Commissioner 2B08
Advisory Neighborhood Commission 2B
9 Dupont Circle, N.W.
Washington, D.C. 20036

Jack Evans, Councilmember
Ward Two
1350 Pennsylvania Avenue, N.W., Suite 106
Washington, D.C. 20004

Melinda Bolling, Esq.
Acting General Counsel
Department of Consumer and Regulatory Affairs
1100 4th Street, S.W., 5th Floor
Washington, D.C. 20024

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ATTESTED BY: 
JAMISON L. WEINBAUM
Director, Office of Zoning