

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18440 of Daniel N. Howard, Jr., pursuant to 11 DCMR § 3103.2, for a variance from the accessory use requirements under subsection 202.2(c), to allow a dental office as a home occupation with three (3) employees occupying the first floor in the R-3 District at premises 641 G Street, S.W. (Square 467, Lot 212).¹

HEARING DATE: November 13, 2012

DECISION DATE: November 13, 2012

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum, dated May 25, 2012, from the Zoning Administrator which stated that the Applicant's home occupancy application to use the subject premises for a "Dental office with three (3) employees" was disapproved due to the need for Zoning Adjustment ("Board" or "BZA") approval of a special exception pursuant to 11 DCMR § 202.2(c).² (Exhibit 5.)

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") 6D, and to owners of property within 200 feet of the site. The site is located within the jurisdiction of ANC 6D, which is automatically a party to this application. ANC 6D was not present at the hearing, nor did the ANC submit a letter. Nevertheless, the Office of Planning ("OP") report indicated that that Applicant had received ANC support. (Exhibit 23.) Also, the Single Member District Commissioner, ANC 6D01, submitted a letter of support to the record. (Exhibit 26.)

¹ The Applicant amended the application from a request for a special exception to an application for a variance from the requirements under § 202.2(c). (Exhibit 25.) The Board accepted the amendment and waived the time requirements for filing supplemental information. The caption has been amended from the relief advertised to reflect the change in relief.

² According to the Office of Planning ("OP"), after subsequent review and discussion with the Zoning Administrator and OP, the Zoning Administrator determined that area variance relief from § 202.2(c) was required instead of special exception relief. (Exhibit 23.)

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OP submitted a report dated November 6, 2012, in which it stated it was unable to make a recommendation. OP also stated that it was not opposed to the request for three non-resident employees at an existing accessory dental practice, but requested the Applicant submit additional information to address the area variance standard. (Exhibit 23.) The Applicant submitted the requested supplemental information. (Exhibit 25.) At the hearing OP expressed support for the application as amended. In addition, the District Department of Transportation ("DDOT") submitted a report of no objection to the application. (Exhibit 17.)

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 under § 3103.2 from the strict application of the accessory use requirements under § 202.2(c). 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 in seeking the variance relief that 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 requested 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 requirements 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 appropriate in this case.

It is therefore **ORDERED** that the application is hereby **GRANTED**.

VOTE: **4-0-1** (Lloyd L. Jordan, Anthony J. Hood, Nicole C. Sorg, and Jeffrey L. Hinkle, to Approve; the third Mayoral appointee vacant.)

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

A majority of the Board members approved the issuance of this order.

ATTESTED BY:



SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: November 15, 2012

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.

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PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN SIX MONTHS AFTER IT BECOMES EFFECTIVE UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD.

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.