

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



**Appeal No. 18999 of Advisory Neighborhood Commission 1C**, pursuant to 11 DCMR § 3100.2, from a decision of the Zoning Administrator, Department of Consumer and Regulatory Affairs, made January 15, 2015, to issue a building permit (No. B1408491) for conversion of two one-family dwellings located at 2305 and 2307 Ontario Road, N.W. (Square 2567, Lots 45 and 46), into a single eight-unit apartment building.

**HEARING DATE:** May 12, 2015

**DECISION DATE:** May 12, 2015

**ORDER GRANTING APPEAL**

**INTRODUCTION**

Advisory Neighborhood Commission (“ANC”) 1C filed this appeal with the Board of Zoning Adjustment (“Board”) on March 13, 2015. The appeal challenges the decision of the Zoning Administrator of the Department of Consumer and Regulatory Affairs (“DCRA”) to approve the issuance of a building permit. On May 8, 2015, DCRA filed a statement indicating that it had determined that the Zoning Administrator erred in approving the permit and was, thus, revoking it. Based on DCRA’s admission of error, the Board granted the appeal at a public hearing on May 12, 2015.

**PRELIMINARY MATTERS**

Notice of Appeal and Notice of Hearing. By memoranda dated March 19, 2015, the Office of Zoning provided notice of the appeal to the Office of Planning; the Councilmember for Ward 1; ANC 1C, the ANC in which the property at issue is located; the Single Member District representative for ANC 1C08; and the Zoning Administrator, who issued the permit challenged in the appeal. Pursuant to 11 DCMR § 3112.14, on March 19, 2015, the Office of Zoning mailed letters providing notice of the hearing to ANC 1C, the Zoning Administrator, and the owners of the property at issue, 2305 Ontario Rd NW LLC and 2307 Ontario Rd NW LLC (together, “202 Development”).

Parties. ANC 1C, the Zoning Administrator, and 202 Development were automatically parties in this proceeding. There were no other requests for party status.

**FINDINGS OF FACT**

1. On January 15, 2015, the Zoning Administrator approved the issuance of Building Permit No. B1408491 (“Permit”).
2. The Permit authorized construction at the properties located at 2305 and 2307 Ontario Road, N.W. (Square 2567, Lots 45 and 46) (together, the “Property”), which are owned by 202 Development. Specifically, the Permit authorized the conversion of two one-family dwellings on the Property into a single eight-unit apartment building.
3. On March 13, 2015, ANC 1C filed this appeal challenging approval of the Permit. ANC 1C alleges that the Zoning Administrator erred in granting a parking credit for the project and committed errors in calculating lot occupancy and gross floor area.<sup>1</sup>
4. On May 5, 2015, 202 Development filed a statement in opposition to the appeal, and on May 8, 2015, it filed a motion to dismiss on various grounds.
5. On May 8, 2015, DCRA filed a statement indicating that it had determined that the Zoning Administrator erred in approving the Permit, and that DCRA was, thus, revoking it.
6. On May 11, 2015, 202 Development filed a statement withdrawing opposition to the appeal.
7. On May 11, 2015, ANC 1C filed a statement noting DCRA’s intent to revoke the Permit.
8. On May 12, 2015, the Board held a public hearing on the appeal, at which it voted to grant the appeal based on DCRA’s admission of error.

**CONCLUSIONS OF LAW**

Under § 8 of the Zoning Act of 1938, D.C. Official Code § 6-641.07(g)(1) (2012 Repl.), the Board is authorized to hear and decide appeals based on an allegation that an administrative officer erred in rendering a decision or determination in administering the Zoning Regulations. *See also* 11 DCMR § 3100.2.

In this case, DCRA has admitted that it erred in approving the Permit that the appeal challenges, and the property owner, 202 Development, has withdrawn opposition to the appeal. Accordingly, the Board finds that DCRA erred in approving the Permit and, therefore, grants the appeal for the reasons stated in Exhibit No. 3 in the record.

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<sup>1</sup> ANC 1C also alleges that there are inconsistencies between the plans the Zoning Administrator approved and the work actually conducted. The Board notes that such inconsistencies do not constitute an error by the Zoning Administrator and, thus, are not appealable to the Board. *See* D.C. Official Code § 6-641.07(g)(1) (granting the Board the power to consider appeals based on an alleged error by an administrative official in carrying out the Zoning Regulations).

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For these reasons, the Board hereby **ORDERS BZA Appeal No. 18999 is GRANTED.**

**VOTE: 4-0-1** (Lloyd J. Jordan, Jeffrey L. Hinkle, Marnique Y. Heath, and Michael G. Turnbull voting to Grant the appeal; one Board seat 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. GARDIN**  
**Director, Office of Zoning**

**FINAL DATE OF ORDER:** September 22, 2015

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.