

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



**Application No. 18557 of 1527 9th LLC**, pursuant to 11 DCMR § 3104.1, for a special exception to allow an existing nonconforming use (beauty salon) to be replaced with another nonconforming use (art gallery and studio) under § 2003 in the R-4 District at premises 1527 9th Street, N.W. (Square 397, Lot 812).<sup>1</sup>

**HEARING DATE:** June 4, 2013, June 25, 2013, and June 28, 2013<sup>2</sup>  
**DECISION DATE:** June 28, 2013

**SUMMARY ORDER**

**SELF-CERTIFIED**

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

The Board of Zoning Adjustment (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 the Applicant, Advisory Neighborhood Commission ("ANC") 6E, and to all owners of property within 200 feet of the property that is the subject to this application. The subject property is located within the jurisdiction of ANC 6E, which is automatically a party to this application. ANC 6E submitted a report in support of the application, dated May 10, 2013, which indicated that at a duly noticed, public monthly meeting on May 1, 2013, with a quorum present, the ANC voted unanimously (7:0:0) to approve the application. (Exhibit 27.)

The Office of Planning ("OP") submitted a timely supplemental report dated June 21, 2013, recommending approval of the application, as amended. This report noted that the Applicant revised its request on June 18, 2013, by continuing to request permission to convert a first floor

<sup>1</sup> The Applicant amended its application by withdrawing its request for a use variance that would have allowed the second floor of the subject property to be used for entirely commercial purposes and revising the second floor plan from office/commercial uses to artist live/work space. (Exhibit 32.) The case caption has been amended to reflect the amended application accordingly.

<sup>2</sup> The Board started to hear this case on June 4<sup>th</sup>, continued the June 4<sup>th</sup> hearing to June 25<sup>th</sup>, and all of the hearings to be heard on June 25<sup>th</sup> were postponed to June 28<sup>th</sup> to allow a quorum.

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**BOARD OF ZONING ADJUSTMENT**  
**District of Columbia**

CASE NO. 18557

EXHIBIT NO. 37

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nonconforming beauty salon to nonconforming art uses, but withdrawing the use variance request for the second floor. According to the OP report, the Applicant now plans to use the second floor space as an artist live-work space, which OP stated is a matter of right residential use in the R-4 zone and a matter of right home occupation within the criteria of § 203.2. (Exhibit 33.) Previously, OP had filed a report that also recommended approval of the special exception under § 2003, but recommended denial of the then-requested use variance under § 2002.3.<sup>3</sup> (Exhibit 28.) The District Department of Transportation ("DDOT") submitted a letter of "no objection" to the record. (Exhibit 26.)

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 special exception pursuant to §§ 3104.1 and 2003, to allow an existing nonconforming use (beauty salon) to be replaced with another nonconforming use (art gallery and studio) in the R-4 District. 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.

The Board concludes that the Applicant has met the burden of proof for special exception relief, pursuant to 11 DCMR §§ 3104.1 and 2003, 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 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, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 12 AS AMENDED BY THE REVISED PLANS AT EXHIBIT 32 AND THE FOLLOWING CONDITION:**

1. The first floor gallery and studio shall be used by no more than five people between 9:00 p.m. and 8:00 a.m., with the exception of two evenings per month, when the occupancy restrictions shall not begin until 10:30 p.m.

**VOTE:**        **3-0-2**    (S. Kathryn Allen, Peter G. May, and Jeffrey L. Hinkle to Approve; Lloyd J. Jordan, not present or voting; one Board seat vacant.)

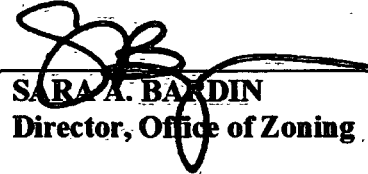
**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

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<sup>3</sup> As noted herein, the Applicant has withdrawn the request for a use variance and altered the plans for the second floor to a residential use that OP indicates would be matter of right in the R-4 zone.

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:** July 2, 2013

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 PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO § 3129.9, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL TOLL OR EXTEND THE TIME PERIOD.

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. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. 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,

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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.