

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19201 of Bourbon Two Real Estate, LLC, as amended,¹ pursuant to 11 DCMR § 3103.2, for a variance from the rear yard setback requirements under § 774.1, and a variance from the nonconforming structure provisions under § 2001.3, to establish a restaurant in the C-2-A District at premises 1771 U Street N.W. (Square 2557, Lots 10 and 11).

HEARING DATE: March 15, 2016
DECISION DATE: March 15, 2016

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (See Exhibit 4 (original self-certification form), Exhibit 38 (revised self-certification form).)

The Board of Zoning Adjustment (“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”) 1C and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1C which is automatically a party to this application. The ANC submitted a report in support of the application, dated March 10, 2016. The ANC’s report indicated that at a properly noticed public meeting on March 2, 2016, at which a quorum was in attendance, the ANC voted unanimously (8-0-0) in support of the application. (Exhibit 36.)

The Office of Planning (“OP”) submitted a timely report dated March 8, 2016, recommending that the Applicant amend the application to request variance relief under § 2001.3 related to nonconforming structures. OP stated in its report that it needed more information from the Applicant on the § 774.1 relief, but that it does not object to approval of relief from § 2001.3. (Exhibit 34.) At the public hearing, OP stated that based on the Applicant’s Supplemental

¹ In light of the Office of Planning’s recommendation, the Applicant revised the application to include a request for variance relief under § 2001.3. (See Exhibit 37 – Applicant’s Supplemental Statement; Exhibit 38 – revised self-certification form.) Also, by consensus, the Board waived the 14-day filing requirement to accept the Applicant’s Supplemental Statement into the record three days before the hearing.

BZA APPLICATION NO. 19201
PAGE NO. 2

statement (Exhibit 38) OP believes that the Applicant has met the variance test and OP recommends approval of the application.

The District Department of Transportation filed a report expressing no objection to the application. (Exhibit 31.)

One neighbor testified at the hearing, not objecting to the application, but ensuring that the ingress and egress to her property will remain protected.

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 § 3103.2, for variances from §§ 774.1 and 2001.3. The only parties to the application were the Applicant and ANC 1C which expressed support for the application. 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 averse 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 §§ 774.1 and 2001.3, 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 § 3125.5, 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 this application is hereby **GRANTED, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 10 - ELEVATIONS, EXHIBIT 32 - SITE PLAN, AND EXHIBIT 33 - ARCHITECTURAL PLANS AND ELEVATIONS.**

VOTE: **4-0-1** (Marnique Y. Heath, Marcie I. Cohen, Frederick L Hill, and Jeffrey L. Hinkle to Approve; 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. BARDIN
Director, Office of Zoning

BZA APPLICATION NO. 19201
PAGE NO. 3

FINAL DATE OF ORDER: March 18, 2016

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 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL 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.

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.