

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19724 of Trevor and Jennifer Selman, as amended¹, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle G § 1201.1 from the rear yard requirements of Subtitle G § 405.2, to construct a rear egress stair and dumbwaiter addition to an existing restaurant roof deck in the MU-4 Zone at premises 5409 Georgia Avenue, N.W. (Square 2996, Lot 52).

HEARING DATE: April 11, 2018

DECISION DATE: April 11, 2018

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum, dated January 30, 2018 from the Zoning Administrator, certifying the required relief. (Exhibit 6.)

The Board of Zoning Adjustment (“Board” or “BZA”) 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 Commissions ("ANC") 4D (affected ANC) and 4C (adjacent ANC), and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 4D, which is automatically a party to this application. The ANC 4D submitted a resolution, and presented testimony at the hearing, recommending approval of the application. The ANC’s resolution indicated that at a regularly scheduled, properly noticed public meeting on March 20, 2018, at which a quorum was present, the ANC 4D voted 6-0-0 to support the application. (Exhibit 33.) No report was received from ANC 4C.

The Office of Planning (“OP”) submitted a timely report recommending approval of the application. (Exhibit 35.)

¹ The Zoning Administrator’s Memorandum submitted with the application indicated that, in addition to the relief referenced in the caption above, special exception relief was needed under Subtitle G § 1200 from the FAR requirements of Subtitle G § 402.1. However, based on consultations between the Office of Planning and the Zoning Administrator’s Office, it was ultimately determined that this relief was not required. (See OP’s report, Exhibit 35.) At the public hearing, the Applicant confirmed the relief before the Board, and Subtitle G § 402.1 was deemed withdrawn. The relief requested is as captioned above.

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The District Department of Transportation (“DDOT”) submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 32.)

The record contained seven letters signed by neighbors in support of the application. (Exhibit 34.) A letter of support was submitted by Councilmember Brandon Todd. (Exhibit 31.)

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for a special exception under Subtitle G § 1201.1 from the rear yard requirements of Subtitle G § 405.2, to construct a rear egress stair and dumbwaiter addition to an existing restaurant roof deck in the MU-4 Zone. The only parties to the case were the ANC and the Applicant. 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 and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2, and Subtitle G §§ 1201.1 and 405.2, 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 Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, 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 this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 4 – ARCHITECTURAL PLANS AND ELEVATIONS.**

VOTE: 5-0-0 (Frederick L. Hill, Carlton E. Hart, Lesylleé M. White, Lorna L. John, and Michael G. Turnbull to APPROVE.)

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

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FINAL DATE OF ORDER: April 13, 2018

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, 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 SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, 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.