

BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA
441 4TH St NW
Suite 210-S
Washington, DC 20001

In Re: Application of
CURT S. HANSEN
Application No. 13991A

Hearing Date:
September 20, 2017

APPLICANT'S OPPOSITION TO MOTION TO RESCHEDULE
HEARING DATE

Applicant, Curt S. Hansen, herein files this Opposition to the Motion to Reschedule the Hearing, filed by Karen Wirt on behalf of the ANC 6C (the ANC) in the above referenced matter, now presently scheduled for September 20, 2017. The matter before this Board is an Application filed by Curt S. Hansen on behalf of the corner store, Old City Market and Oven, to modify a 1983 Order which granted the Applicant the right to cook food. The Applicant now seeks permission to have seating, to employ more than two people, and to expand the scope of the renovated basement level from merely storage. Within their motion the ANC stated that they wish to continue because two of their six members are unavailable to consider this Application on September 13, 2017 and because one of their members cannot attend the hearing on September 20th. For the reasons stated below, the motion should be denied.

Subtitle Y Section 400.5 of the Zoning Regs states that the Board may advance or continue a hearing "for good cause shown." The ANC has not provided any basis for determining "good cause." They have not argued, demonstrated, or set forth any facts as to why the ANC cannot handle this matter in a timely manner in the absence of the two representatives they identified. Apparently, they decided to continue the BZA hearing back in July 2017, yet

they never informed the Applicant of that decision until the filing of this motion. They never advised the Applicant that they would need to continue the hearing date, nor did they seek the opinion of the Applicant as to whether such a continuance would be detrimental to the Applicant. The fact of the matter is that a delay of this hearing is detrimental to the Applicant.

The gravamen of this Application is to permit the Applicant to adjust the hours of operation and the number of employees in order to fulfill the needs and demands of the community. The Applicant also seeks to have a limited number of seats for customers. The purpose of the seating is not simply to have a sit in fast food establishment, as defined by the Zoning Administrator, but to allow customers to sit in the store while waiting for their food, to sit and talk to their friends, to sit and read a book, to sit and wait for the rain to stop and their bus to come, to sit and listen to music or to sit and play music at a piano. In short we seek seating for any number of reasons. As is evident from the signed petitions attached to the Application, there is an overwhelming response by our customers in support of this Application. Delaying this matter not only inconveniences the hundreds of people who have asked for seating, but is economically detrimental to this business.

The fact of the matter is that the Old City Market and Oven has lost business due to the fact that people cannot sit in the establishment. When we first conceived of this, we thought that this business would strictly be a carry-out and take-home business. We were not interested in running a restaurant, and had no desire to operate one. However, we also wanted to create a warm and inviting place that went beyond your typical convenience store or take out, which are, for the most part, cold, ugly, and unimaginative. We wanted to create a neighborhood place that people would want to come to, not merely out of necessity, but out of curiosity, because they felt welcomed, because they could call it their place, and because it helped define their

neighborhood. Unfortunately, when we conceived of this establishment, we did not fully take into account the dynamics of today's living situation. The fact of the matter is that as real estate prices have gone up, living spaces have downsized. People no longer have the luxury of living rooms and dining rooms where they can meet with their friends, eat, and hang out. Apartments are smaller and houses are more crowded. As a result, when people meet their friends, they want to do so in a public space outside of their homes. People want to eat and meet at Old City Market and Oven. But they can't. They are not allowed to. And so, we lose a lot of their business as people walk three blocks down K Street to a carry out that does have seating (and also serves alcohol). When we first opened, we had employees from the Office of Aging and teachers from JO Wilson come here on a regular basis to sit and unwind while they had a cup of coffee or a fruit drink. We lost their business when we were told we had to remove all chairs. This place is simply not as friendly or inviting as it could be when someone cannot even sit while waiting for their carryout food to be prepared. People wander down to the basement and see that all of the convenience store shelving has been removed until this matter can be resolved. People see the record player and the records and the piano, and then tell us how nice it would be if they could sit and play the piano or sit and listen to a record. We tell them that maybe sometime soon in the future that will come to pass. But until that future comes, the people in this neighborhood simply look, comment on how beautiful the place is, what a shame it is they cannot sit, and then leave.

We have been touted by both the Washingtonian Magazine and the Washington DC City Paper as the new breed of corner store¹. After being opened for only five months, we were named the Best Bodega in DC by the City Paper. We work very hard to try to understand and

¹ See Washingtonian Magazine online article by Hayley Garrison Phillips, November 17, 2016 and Washington DC City Paper, Best of DC, April 2017.

meet the needs of the neighborhood. Yet we are still not yet at a break even point in our business- we are losing money every month. Maybe seating will not be the miracle we need. But most assuredly another month delaying this decision does mean absolutely another month of loses.

We stand ready to meet with the ANC and address any concerns that they may have with this Application. After we filed this Application in June 2017 and mailed a copy to our local ANC, Curt Hansen received a call from the ANC on July 12th in the late afternoon. In that telephone call the ANC indicated that they had received our application and would informally discuss it that night, but that the matter was not on their agenda and that we would be asked to appear at a later time. The ANC did invite Hansen to their meeting, but because the invitation came on the same day as the meeting, and because Hansen had to work at the Store that evening, he declined to come. He was never informed that the ANC would seek to continue the BZA hearing, and he was never asked whether such a continuance would be harmful to the business. Subsequently, after July 12th, when apparently the ANC voted to seek to continue the BZA hearing, no one contacted Hansen or the business to inform him that the ANC had decided to continue the hearing. A few days before the ANC filed their motion in August, the ANC did contact Hansen and asked him if he would continue the hearing date to give the ANC more time to meet with the Applicant. Hansen indicated that he did not want to continue the hearing and that he did not think it was in his interest to continue the hearing. Again, no one informed Hansen that the ANC had already voted to continue the matter. Thereafter, the ANC filed the instant motion.

This Application was filed on June 16, 2017 and a copy of the Application was mailed to the ANC that day. The ANC6C zoning and planning committee met on July 5, 2017. They

could have considered the application at that time. They chose not to. The ANC decided not to meet again in August, but the committee could have scheduled this Application for consideration in September 2017. They chose not to. The full ANC could have considered this matter at their meeting on July 12, 2017. They chose not to. They have provided no reason why they could not consider this Application in a timely manner in September other than the fact that one or two members will not be in attendance at the meetings in September. Nevertheless, the ANC will apparently continue to hold meetings and conduct business in September. Notice of the September BZA hearing was mailed out to all affected homeowners in the neighborhood. The Public Notice placards about this Application have been posted on the property. Customers and neighbors have been informed about the hearing and are planning to attend. A continuance of this matter will cause needless disruption and expense. Presumably new notices would have to be mailed, new placards prepared. Such disruption is not necessary, such additional expense is unwarranted, and the ANC has shown no good cause why the matter cannot be considered on its scheduled date.

WHEREFORE the above stated reasons, the Applicant respectfully requests that this Body deny the ANC6C Motion to Reschedule the Hearing Date.

Respectfully submitted,

/S/ Curt S. Hansen

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CERTIFICATE OF SERVICE

I hereby affirm that I have caused a copy of the instant Opposition to Motion to Reschedule Hearing Date was transmitted via email and via US Mail on this 23rd day of August, 2017 to

Karen Witt

Chair, ANC6C

PO Box 77876

Washington, DC 20013-7787

/s/ Curt S. Hansen

CURT S. HANSEN