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FILE NO: 59268.000002

October 28, 2004

By Hand Delivery

District of Columbia Board of Zoning Adjustment
c/o Geoffrey Griffis, Chairman
441 4th Street, N.W.
Room 210-S
Washington, D.C. 20001

Re: BZA Application No. 17226 of John R. Klein by tenant ZIPS Dry Cleaners for a special exception to expand an existing dry cleaning establishment

Dear Chairman Griffis:

As requested, enclosed is a proposed summary order in this case for review and approval by the Board at its November 2, 2004 meeting.

Sincerely,

Richard L. Aguglia

Richard L. Aguglia

Enclosure

cc: By Mail and By E-Mail

Office of Planning
Attention: Travis Parker

By Mail

ANC 3F
Attention: Karen Lee Parry, Chair

By E-Mail

Carl Kessler, SMD, ANC 3F01
Brett Vago, ZIPS Dry Cleaners

BZA
Case No. 17226
Exhibit No. 33

Board of Zoning Adjustment
District of Columbia
CASE NO. 17226
EXHIBIT NO. 33

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 17226 of John R. Klein, by tenant ZIPS Dry Cleaners, pursuant to 11 DCMR § 3104.1, for a special exception to expand a dry cleaning establishment under section 743.2(c) and 729 in the C-3-A District at premises 4418-4420 Connecticut Avenue, N.W. (Square 1971, Lot 815).

HEARING DATE: October 26, 2004
DECISION DATE: November 2, 2004

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief in this case was self certified, pursuant to 11 DCMR § 3113.2.

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 Advisory Neighborhood Commission (ANC) 3F and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 3F, which is automatically a party to this application. ANC 3F submitted a resolution of no objection to the application so long as the following conditions were adopted by the Board:

1. The Applicant shall employ a traffic coordinator on Mondays and Friday from 7:00 am to 10:00 am and on Saturdays from 8:00 am to 7:00 pm to ensure that customers do not park illegally.

2. The Applicant shall place signs on all counters inside stating that it will not serve customers who are parked illegally.

3. The Applicant shall remove all signs in the windows other than the one stating "free parking in the rear" to make that sign more easily noticed.

4. The Applicant shall provide plantings across the front of the entire store.

The Board notes that the Applicant has agreed to conditions numbered 1, 2 and 4 but not to condition number 3. The Applicant has argued and the Board agrees that there is no nexus between the special exception being sought in the application and condition number 3 being requested by the ANC, as the Applicant has represented that there will be no new signs posted with the expansion. Further, the Applicant argues and the Board agrees that the Board has no jurisdiction to imposed conditions involving interior signage. The Office of Planning (OP) and Department of Transportation (DOT) submitted reports in support of the application.

The Board also notes that the parking in the rear of the premises at 4418-4420 Connecticut Avenue, N.W. is subject to special exception approval by this Board and that the current special exception expires on or about June 13, 2006. Appl. No. 16659.

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 § 3104.1, for special exception under § 743.2(c) and 729. No parties appeared at the public hearing in opposition to this application or otherwise requested to participate as a party in this proceeding. Accordingly, as set forth in the provisions and conditions below, a decision by the Board to grant this application would not be adverse to any party. One person testified in support of the application and three persons in opposition.

Based upon the record before the Board and having given great weight to the ANC resolution of no objection with conditions with the exception noted, the OP and DOT report, as well as the Applicant's expert traffic analysis, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 743.(c) and 729, that the requested relief can be granted, subject to the conditions set forth below, 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 requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application be **GRANTED** subject to the following **CONDITIONS**:

1. The Applicant shall employ a traffic coordinator at the site on Mondays and Fridays from 7:00 am to 10:00 am and on Saturdays from 8:00 am to 7:00 pm to promote lawful parking by customers.
2. The Applicant shall place signs on all counters inside stating that it will not serve customers who are parked illegally.
3. The Applicant shall provide and maintain plantings across the front of the entire store.
4. Condition 1 shall expire when the special exception granted in Application No. 16659 for continued use of the parking lot behind the dry cleaning establishment expires.

VOTE:

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
Each concurring member approved the issuance of this order.

FINAL DATE OF ORDER: _____

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

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 APPLIANT FILES PLANS FOR PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

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, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

PURSUANT TO 11 DCMR § 3205, 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.

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401 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, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.