

**BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA**

Application of Endeka Enterprises and
1320 Penelope LLC for Modification with Hearing

ANC 2B
BZA Case No. 18906

STATEMENT OF THE APPLICANT

This is the application of Endeka Enterprises and 1320 Penelope LLC (collectively, the “**Applicant**”) for a Modification with Hearing to the plans approved in Order Nos. 18906, 18906-A, and 18906-B (collectively, the “**Orders**”), attached as Exhibit D, for special exception relief from the setback requirements for rooftop structures to the project approved by the Board of Zoning Adjustment (the “**Board**”) in 2015, 2016, and 2019, respectively, for the property located at 1337 Connecticut Avenue, NW (Square 137, Lots 700 and 827) (the “**Property**”). In BZA Order No. 18906-B (“**Order 18906-B**”), the Board granted the Applicant’s request to convert the approved mechanical penthouse area into a partial seventh floor accessory restaurant; the Applicant now proposes a pergola with a retractable roof and temporary roll-down panels to extend over the exterior restaurant use. The pergola is set back the requisite amount from the street; however, it is not set back from the side lot lines. Accordingly, the Applicant requests relief from the setback requirements of Subtitle C § 1504.1(c)(4) to construct a pergola with a retractable roof and temporary roll-down panels over the rooftop restaurant space to ensure the enjoyment and comfort of the restaurant’s patrons.¹

The Property is split-zoned and located in the MU-1 and MU-9B Zone Districts within the Dupont Circle Overlay Zone and the Dupont Circle Historic District. The Property is a through lot

¹ The Board approved the seventh floor for use as a restaurant in Case No. 18906-B, accordingly, that use is permitted pursuant to Section A-301.7.

with frontage on Connecticut Avenue, NW and 18th Street, NW, and it is improved with a six-story building and a partial seventh floor that is used as an accessory restaurant space (the “**Building**”).

I. NATURE OF RELIEF SOUGHT

The Applicant requests that the Board approve, as a Modification with Hearing, special exception relief pursuant to Subtitle C § 1504.1(c)(4) of Title 11 of the District of Columbia Municipal Regulations (the “**Zoning Regulations**”).

II. JURISDICTION OF THE BOARD

The Board has jurisdiction to grant the relief requested pursuant to Subtitle X § 900.2 and Subtitle C §§ 1506.1(b) and 1506.1(c)(1) of the Zoning Regulations.

III. DESCRIPTION OF THE PROPERTY AND SURROUNDING AREA

The Property is located between Dupont Circle to the north and N Street to the south. The Property is on the east side of Connecticut Avenue on a block developed primarily as office use with ground floor retail on both Connecticut Avenue and 18th Street. The west side of Connecticut Avenue is similarly developed for office use with ground floor retail. Across 18th Street from the Building are residential apartment buildings. As explained below, the Building was converted from office use to an inn with a rooftop restaurant.

The Property is located within the boundaries of the Dupont Circle Historic District, and while it is not a contributing building to the historic district, it abuts buildings to its north and south that are contributing to the historic district. The proposed work has undergone all necessary historic reviews.

IV. BACKGROUND AND REVISED PROJECT

On June 30, 2015, in BZA Order No. 18906 (“**Order 18906**”), the Board approved Applicant’s request for variances from the width of court requirements, the off-street parking

requirements, the loading requirements, and the zone district boundary line requirements and special exceptions from the hotels and inns requirements and the roof structure setback requirements of the Zoning Regulations of 1958² to allow conversion of an existing office building into a mixed-use building in the DC/SP-1 and C-3-C Districts.

On July 19, 2016, in BZA Order No. 18906-A (“**Order 18906-A**”), the Board granted the Applicant’s request for minor modifications to the plans approved in Order 18906. The Applicant proposed to amend the approved plans in order to replace the office use on the second floor and the restaurant use on the sixth floor with additional inn space and to reduce the amount of parking in the garage from seven to six parking spaces. The proposed additional inn space on the second and sixth floors would result in an increase in the number of inn rooms from the 50 originally proposed to 73 approved in the modified plans.

On February 6, 2019, in Order 18906-B, the Board approved the Applicant’s request to expand the proposed mechanical penthouse area for accessory restaurant use on the partial seventh floor. The approved request enabled the Applicant to convert 900 square feet of mechanical penthouse space into a 1,334 square-foot restaurant space with dedicated restrooms and a pantry area that supports restaurant service for an outdoor terrace on the rooftop of the sixth floor.

The Applicant requests relief from the rooftop structure setback requirements of Subtitle C § 1504.1(c)(4) to allow the construction of a pergola with a retractable roof and temporary roll-down panels that will cover the rooftop restaurant area and can provide temporary sides to the structure.

² The original application was filed under the 1958 Zoning Regulations that were then in effect. The 1958 Zoning Regulations were repealed on September 6, 2016, and replaced with the new text of Title 11 of the District of Columbia Municipal Regulations (“2016 Regulations”). The repeal of the 1958 Zoning Regulations and their replacement with the 2016 Regulations have no effect on the vesting and validity of the original application.

V. THE APPLICATION SATISFIES THE CRITERIA FOR THE REQUESTED RELIEF

The Applicant requests special exception relief from the requirements of Subtitle C § 1504.1(c)(4) to allow for the construction of a pergola with a retractable roof and temporary roll-down panels to the rooftop restaurant space that is not set back from the side lot lines. To obtain the requested relief, the special exception must be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and must not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps. Subtitle X §§ 901.2(a)-(b). The Applicant must also demonstrate that reasonable efforts were made for the housing for mechanical equipment, stairway, and elevator penthouses to be in compliance with the required setback. Subtitle C § 1506.1(b). Further, the applicant must demonstrate at least one of the following: (1) the strict application of the requirements of this chapter would result in construction that is unduly restrictive, prohibitively costly, or unreasonable, or is inconsistent with building codes; (2) the relief requested would result in a better design of the penthouse or rooftop structure without appearing to be an extension of the building wall; (3) the relief requested would result in a penthouse or rooftop structure that is visually less intrusive; or (4) operating difficulties such as meeting D.C. Construction Code requirements for roof access and stairwell separation or elevator stack location to achieve reasonable efficiencies in lower floors; size of Subtitle C § 115 building lot; or other conditions relating to the building or surrounding area make full compliance unduly restrictive, prohibitively costly, or unreasonable. Subtitle C § 1506.1(c).

A. The Requested Relief is in Harmony with the General Purpose and Intent of the Zoning Regulations and Zoning Maps

The general purpose and intent of the Zoning Regulations and Zoning Maps is to promote the public health, safety, morals, convenience, order, prosperity, and general welfare. Subtitle A §

101.1. The relevant sections of the Zoning Regulations provide guidelines by which the Board may evaluate whether a special exception should be granted.

The Applicant requests relief from the setback requirements of Subtitle C § 1504.1(c)(4) to construct a pergola with a retractable roof and temporary roll-down panels over the rooftop restaurant that is not sufficiently set back from the north and south side building walls. The Building's neighboring buildings to north and south, with whom the Building shares lot lines, are both contributing buildings to the Dupont Circle Historic District. In granting relief from the setback requirements of Subtitle C § 1504.1(c)(4), the Board will enable the Applicant's already-approved restaurant to be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps by promoting the public enjoyment by the restaurant's patrons through the construction of a protective covering over the exterior tables.

B. The Requested Relief Will Not Adversely Affect the Use of Neighboring Property

The rooftop is already approved for restaurant use; the Applicant is simply seeking approval to provide a roof covering over the entirety of the restaurant space, which would not be set back from the northern or southern lot lines. The Applicant has received support for the proposed roof structure from the owners of the Building's neighboring buildings to the north and south, as demonstrated in their Letter of Support in Exhibit I. The pergola with a retractable roof and temporary roll-down panels would be set back from all street lot lines. Given that the pergola is set back from Connecticut Avenue and 18th Street, its visual impact on the neighboring properties will be minimal. In fact, the pergola with a retractable roof and temporary roll-down panels may even reduce the existing impacts of the rooftop restaurant in that it may muffle any noise produced by the exterior space and it may minimize visibility of the rooftop space.

C. The Applicant Made Reasonable Efforts for Mechanical Equipment, Stairway, and Elevator Penthouses to be in Compliance with Setback Requirements

Because this application does not involve the mechanical equipment, stairway, and elevator penthouse, Subtitle C § 1506.1(b) is not applicable here.

D. Strict Application of the Setback Requirements of Subtitle C, Chapter 15 Would Result in A Better Design of the Rooftop Structure

The Applicant requests special exception relief from Subtitle C § 1504.1(c)(4) because, pursuant to Subtitle C § 1506.1(c)(2), the proposed pergola with a retractable roof and temporary roll-down panels results in a better design of the rooftop structure without appearing to be an extension of the building wall. As noted above, the proposed pergola will provide benefit to the restaurant patrons since it will provide limited protection from the elements, including the sun or cold, and provide a more intimate dining experience. It may provide additional benefits to the surrounding community in that it will provide a more uniform aesthetic for the rooftop and it may help reduce any noise impacts that may otherwise exist from the rooftop restaurant. The proposed pergola will not appear to be an extension of the building wall as it will have a retractable roof and extend horizontally, parallel with the sixth floor rooftop. Furthermore, the proposed pergola with a retractable roof and temporary roll-down panels will benefit the Applicant because it will enable the rooftop restaurant space to be used throughout the year, including during the shoulder season.

VI. COMMUNITY OUTREACH

The Applicant expects to reach out to representatives of Advisory Neighborhood Commission 2B (“ANC 2B”) contemporaneously with the filing of this Application. The Applicant will also continue to communicate with the Building’s neighbors and appropriate city officials. Further, the Applicant pledges to supplement the record regarding any outreach efforts at least 21 days before the public hearing.

VII. CONCLUSION

For the reasons set forth above, the Applicant respectfully requests that the Board approve, as a Modification with Hearing, special exception relief pursuant to Subtitle C § 1504.1(c)(4).

Respectfully submitted,

____/s/_____
Christine Roddy

____/s/_____
Cindy Vong*
(*admitted in Massachusetts only)

Certificate of Service

I hereby certify that I sent a copy of the foregoing document to the following addresses on January 17, 2025, by first class mail or hand delivery:

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