

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



**BZA Application No. 19887-A
Marjorie Hutchinson
1724 North Capitol Street, NW (Square 3105, Lot 72)**

HEARINGS (19887):	December 19, 2018 and March 6, 2019
DECISION DATES (19887):	January 30 and March 13, 2019
ORDER ISSUANCE DATE (19887):	April 1, 2019
HEARING DATES (19887-A):	September 11, 2024 and April 9, 2025 ¹
DECISION DATE (19887-A):	April 30, 2025

**SUMMARY ORDER ON REQUEST FOR
MODIFICATION WITH HEARING**

Pursuant to notice, at its September 11, 2024 and April 9, 2025, public hearings, the Board of Zoning Adjustment (“**Board**” or “**BZA**”) deliberated on a request for a modification with hearing to BZA Order No. 19887 to modify Condition No. 10 of the original order concerning the storage of trash at a restaurant in the RF-1 zone. The Board considered the request for a modification with hearing under Subtitle Y § 704 of Title 11 of the DCMR (Zoning Regulations of 2016, the “**Zoning Regulations**” to which all references are made unless otherwise specified). For the reasons stated below, the Board **APPROVES** the request for modification.

ORIGINAL APPLICATION. In Application No. 19887, the Board approved the request by Marjorie Hutchinson (the “**Applicant**”) for use variance from the use provisions of Subtitle U § 301, to permit the conversion of an existing nonconforming non-residential use to a restaurant in the RF-1 Zone. The Board issued Order No. 19887 on April 1, 2019. (Exhibit 3 of the record for Case No. 19887-A.) The approval was subject to 13 conditions regarding noise, hours of operation, parking, trash, rodent control, signage, and outdoor restaurant use.

¹ The request was originally filed as a modification of consequence (now modification without hearing), however, at the May 8, 2024 public meeting, the Board removed the application from the consent calendar and scheduled for a hearing as a modification of significance (now modification with hearing). The continued public hearing was also postponed twice at the Applicant’s request.

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PROPOSED MODIFICATION.² On March 8, 2024, the Applicant submitted a request for a modification to Order No. 19887. (Exhibits 1-6.) The proposed modification included a request to modify Condition No. 10 of the original order concerning the storage of trash at a restaurant. The Applicant proposes to modify Condition No. 10 to read as follows:

Condition No. 10: The Applicant shall remove trash and garbage from the property at least three times per week. The Applicant shall remove grease from the property on a regular basis as required for business operations. The Applicant shall remove recycling at least once per week. All such removal shall occur during morning hours. The Applicant shall retain a private contractor for all such removal. The Applicant shall ensure that the contractor(s) shall not block traffic or impede traffic flow.

All trash, garbage, grease and recycling shall be properly stored internally or in a fully covered outdoor enclosure that should not be moved from the approved location. The trash enclosure shall be properly closed and locked when not in use, and cleaned and maintained at a minimum of once a week.

NOTICE OF THE REQUEST FOR MODIFICATION. Pursuant to Subtitle Y § 704.5, the Applicant served the request for a modification with hearing on the parties to the original application. (Exhibit 28.) The Board referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

PARTIES. The parties to this case were the Applicant and Advisory Neighborhood Commissions ("ANC") 5E and 5F.

ANC REPORT. ANC 5E's report indicated that at a regularly scheduled, properly noticed public meeting on April 23, 2024, at which a quorum was present, the ANC voted to support the modification. (Exhibit 18.) The ANC report raised concerns regarding trash pickup, trash trucks, and the trash structure. The ANC also noted concerns about the shed conforming with the historic district standards. The ANC's report included four conditions regarding historic preservation, the shed structure, trash pickup, and sidewalk features to prevent parking. The Board did not adopt these conditions in the Order.

ANC 5E03 Commissioner Fred Carver testified on behalf of ANC 5E at the September 11, 2024 public hearing.

ANC 5F's report indicated that at a regularly scheduled, properly noticed public meeting on November 18, 2024, at which a quorum was present, the ANC voted to support the modification. (Exhibit 51.) The ANC's report included conditions regarding the shed structure preventing drainage, odors, and rodents, as well as frequency of trash pickup. The Board did not adopt these conditions in the Order.

² The original request was to eliminate the Condition No. 10 concerning trash storage, however, the Applicant agreed to modify the condition instead prior to the April 30, 2025 public hearing. (Exhibit 77A.)

OFFICE OF PLANNING (“OP”) REPORT. OP submitted a supplemental report recommending approval of the modification. (Exhibit 73.) The OP report included recommended language for modifying Condition No. 10 of the order, which the Applicant agreed to and the Board adopted in the final modification order.

OP submitted two previous reports noting they would not be in support of eliminating Condition No. 10, but would recommend approval of modifying the condition regarding the storage of trash. (Exhibits 38 and 54.)

DISTRICT DEPARTMENT OF TRANSPORTATION (“DDOT”) REPORT. DDOT submitted a supplemental report indicating that it had no objection to the modification, following the Applicant’s conditional approval from the Public Space Committee. (Exhibit 76.)

DDOT’s original report indicated it had no objection to the modification on the condition that the Applicant applies for and receives public space approval to store trash in public space. (Exhibit 17.)

PERSONS IN SUPPORT. The Board received two letters from neighbors in support of the application. (Exhibits 8, 9.)

PERSONS IN OPPOSITION. The Board received ten letters from neighbors in opposition to the application. (Exhibits 23, 37, 41, 42, 42A, 46, 50, 55, 60, 67, 68.)

CONCLUSIONS

Pursuant to Subtitle Y § 704.1, any request for a modification that does not meet the criteria for a modification without hearing³ requires a public hearing and shall be processed as a modification with hearing. The Applicant’s request complies with Subtitle Y § 704, which provides the Board’s procedures for considering requests for modifications with hearing.

As directed by Subtitle Y § 704, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for a modification with hearing.

Pursuant to Subtitle Y § 604.3, the order of the Board may be in summary form where granting an application when there was no party in opposition. As a summary order, it does not constitute binding legal precedent on the Board and shall not be considered by the Board in evaluating future applications.

DECISION

³ See, Subtitle Y § 703.7.

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Based on the case record and the testimony at the hearing, the Board concludes that the applicant has satisfied the burden of proof for a modification with hearing to modify Condition No. 10 of the original order concerning the storage of trash at a restaurant in the RF-1 zone.

Accordingly, it is **ORDERED** that the modification request is **GRANTED**, subject to the following **CONDITIONS**, which shall replace and supersede the conditions of BZA Order No. 19887:

Noise

1. There shall be no live, recorded, or amplified music in any outdoor space of the property.
2. Sound insulation shall be installed and maintained in any existing or future walls of the second floor terrace facing residences. There shall be planters and plantings installed and maintained to abate noise emanating from the terrace.
3. If a sidewalk café is approved and permitted, there shall be planters and plantings installed and maintained to abate noise emanating from the sidewalk café.

Allowable Hours of Operation

4. The hours of the indoor operation of the restaurant shall be limited to 8 a.m. to midnight.
5. The hours of the outdoor operation of the restaurant shall be limited to 10 a.m. to 10 p.m. Sunday through Thursday, and 11 a.m. to 11:00 p.m. Friday and Saturday.

Parking

6. **Prior to the issuance of a certificate of occupancy for the restaurant use**, the Applicant shall submit to DDOT a request to install bollards and/or apply street marking on the north side corner of Randolph Place, N.W. at North Capitol Street.
7. **Prior to the issuance of a certificate of occupancy for the restaurant use**, the Applicant shall submit to DDOT a request to designate one side of the Unit block of Randolph Place, N.W. as resident parking only from 2 p.m. to midnight on all days of the week.
8. **Prior to the issuance of a certificate of occupancy for the restaurant use**, the Applicant shall submit to DDOT a request to designate a loading zone with limited hours of 8 a.m. to 12 p.m.
9. **Prior to the issuance of a certificate of occupancy for the restaurant use**, the Applicant shall submit to DDOT a request to install a bike rack near the property.

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Trash

10. The Applicant shall remove trash and garbage from the property at least three times per week. The Applicant shall remove grease from the property on a regular basis as required for business operations. The Applicant shall remove recycling at least once per week. All such removal shall occur during morning hours. The Applicant shall retain a private contractor for all such removal. The Applicant shall ensure that the contractor(s) shall not block traffic or impede traffic flow.

All trash, garbage, grease and recycling shall be properly stored internally or in a fully covered outdoor enclosure that should not be moved from the approved location. The trash enclosure shall be properly closed and locked when not in use, and cleaned and maintained at a minimum of once a week.

Pest and Rodent Control

11. The Applicant shall make best efforts to minimize and eliminate vermin on the property and shall maintain a contract with a pest abatement service provider to do so.

Signage

12. While signage shall be allowed on both Randolph Place and North Capitol Street, there shall be no external, illuminated signage on Randolph Place.

Time Limit on Approval of Outdoor Restaurant Use

13. The restaurant use of the outdoor spaces on the Property, as requested and described by the Applicant in the application and in testimony, shall expire in **FIVE YEARS** from the effective date of the Certificate of Occupancy to allow the Board to review the potential harm to the public good caused by this aspect of the use variance. An application to extend this time limit shall be in the form of a modification requiring a public hearing.

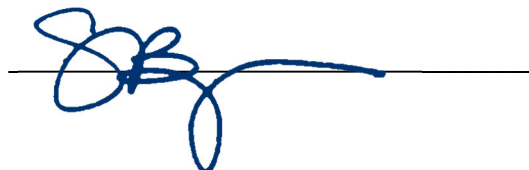
In all other respects, Order No. 19887 remains unchanged.

VOTE: 4-0-1 (Frederick L. Hill, Carl H. Blake, Chrishaun S. Smith, and Robert E. Miller 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

FINAL DATE OF ORDER: May 6, 2025

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, UNLESS, WITHIN SUCH TWO-YEAR PERIOD, AN APPLICATION FOR A BUILDING PERMIT FOR THE ERECTION OR ALTERATION APPROVED IS FILED WITH THE DEPARTMENT OF BUILDINGS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 IS FILED 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 A § 303, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. 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.

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.