

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Board of Zoning Adjustment



**BZA Application No. 20489**  
**The Culinary District, Inc**  
**1914 9th Street, N.W. (Square 0361, Lot 123)**

**HEARING DATE:** September 29, 2021

**DECISION DATE:** September 29, 2021

**SUMMARY ORDER**

**RELIEF REQUESTED.** The application requests the following relief in order to expand a restaurant use to the second story in an existing, attached, two story with basement, restaurant in the RF-1 Zone:

- Use variance from the nonconforming use requirements of Subtitle C § 204.1, pursuant to Subtitle X § 1002.1(b)

The zoning relief requested in this case was self-certified. (Exhibit 33.)<sup>1</sup>

**PARTIES.** The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 1B, the "affected ANC" pursuant to Subtitle Y §§ 101.8 and 403.5(b) of the Zoning Regulations (Title 11 of the DCMR, Zoning Regulations of 2016, to which all references are made unless otherwise specified).

**NOTICE OF THE APPLICATION AND PUBLIC HEARING.** The Board of Zoning Adjustment (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.

**ANC REPORT.** The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on September 2, 2021, at which a quorum was present, the ANC voted to support the application. (Exhibit 36.) The ANC report raised no issues or concerns.

**OFFICE OF PLANNING ("OP") REPORT.** OP submitted a report recommending approval of the application. (Exhibit 38.)

**DISTRICT DEPARTMENT OF TRANSPORTATION ("DDOT") REPORT.** DDOT submitted a report indicating that it had no objection to the application because it concluded that the relief would not result in any adverse impacts to the District's transportation network. (Exhibit 37.)

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<sup>1</sup> The application was originally accompanied by a Zoning Administrator's Memorandum (Exhibit 2); however, the Applicant amended the application and submitted a self-certification Form 135 that withdrew the special exception relief from the penthouse use requirements.

**PERSONS IN OPPOSITION.** The Board received one letter from a neighbor in opposition to the application. (Exhibit 41.)

### **CONCLUSIONS**

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.

Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations filed in this case, the Board concludes that the Applicant has met the burden of proof that the requested variance relief can be granted because:

- There exists an exceptional or extraordinary situation or condition related to the property;
- The exceptional condition creates a practical difficulty, in the case of an area variance, or an undue hardship, in the case of a use variance, in complying with the Zoning Regulations;
- The relief can be granted without substantial detriment to the public good; and
- The relief can be granted without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

### **DECISION**

Based on the case record and the testimony at the hearing, the Board concludes that the applicant has satisfied the burden of proof for the requested relief and therefore **APPROVES** the following relief:

- Use variance from the nonconforming use requirements of Subtitle C § 204.1, pursuant to Subtitle X § 1002.1(b)

Subject to the following **CONDITION**:

1. The project shall be constructed in accordance with the plans submitted as Exhibit 3 in the record,<sup>2</sup> as required by Subtitle Y §§ 604.9 and 604.10.

**VOTE: 5-0-0** (Frederick L. Hill, Lorna L. John, Carl H. Blake, Chrishaun S. Smith, and Peter G. May to APPROVE)

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<sup>2</sup> **Self-Certification.** The zoning relief requested in this case was self-certified, pursuant to Subtitle Y § 300.6. In granting the requested self-certified relief subject to the plans submitted with the Application, the Board makes no finding that the requested relief is either necessary or sufficient to authorize the proposed construction project described in the Application and depicted on the approved plans. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any such application that would require additional or different zoning relief from what is granted by this Order.

**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. BYRDIN  
Director, Office of Zoning

**FINAL DATE OF ORDER:** October 5, 2021

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

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ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED.  
VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.