

BZA No. 21157

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1331 35th Street, NW
Washington, DC 20007

November 6, 2024

Via IZIS

Board of Zoning Adjustment
441 4th Street, N.W.
Suite 210S
Washington, DC 20001

Re: BZA No. 21157 - Response to Applicant's Post-Hearing Submission

Dear Chairperson Hill and Members of the Board:

I am writing in response to the Board's memo dated October 24, 2024, regarding the proposed temporary outdoor seating and trash storage arrangements at 3428 O Street, NW.

1. Response Regarding Proposed Outdoor Seating

As the adjacent property owner at 1331 35th Street, NW, I must strongly object to the proposed outdoor "standing bar." My property is situated slightly downhill from the subject property, making it particularly vulnerable to any adverse impacts. The corner has already become a congregating point for students and customers, creating noise disturbances and parking issues. The addition of an outdoor bar area would only exacerbate these problems.

While my property is currently tenant-occupied due to my overseas work assignment, it remains my primary residence. The current conditions have already created challenges in maintaining competitive rental rates, and the proposed outdoor seating would further impact my property's value and desirability to potential tenants. This runs counter to the intent of Section 11 DCMR § X-901.2, which requires that special exceptions shall not "adversely affect the use of neighboring property."

2. Concerns Regarding Trash Storage

The Applicant's proposal to place trash receptacles on the public street during business hours is unacceptable and appears to violate Section U-254.10 of the zoning regulations, which explicitly states that "All storage of materials and trash shall occur within the building area devoted to the corner store. There shall be no external storage of materials or trash." The placement of trash receptacles outside, even temporarily, constitutes "storage" under any reasonable interpretation of the regulation.

3. Pattern of Non-Compliance

It is relevant to note the Applicant's previous unauthorized construction of ventilation units with a condenser overhanging my property, which was only removed after objections were raised. This incident demonstrates a concerning pattern of disregard for proper procedures and neighboring property rights. The D.C. Court of Appeals has consistently held that an applicant's history of compliance is relevant to special exception determinations.

4. Clarification Regarding Hearing Attendance

I must address counsel for the Applicant's implications regarding my absence from recent hearings. As I am currently working in East Asia, I face a 13-hour time difference that makes attendance at D.C. business hours practically impossible. The suggestion that my physical absence indicates lack of concern is inappropriate and fails to acknowledge modern global working conditions. My numerous written submissions demonstrate my active engagement in this matter.

The Board has consistently recognized that special exceptions must be evaluated based on their impact on neighboring properties (see *French v. D.C. Bd. of Zoning Adjustment*, 658 A.2d 1023, 1032-33 (D.C. 1995)). The cumulative effect of the proposed changes would create adverse impacts that are neither minor nor capable of being mitigated through conditions.

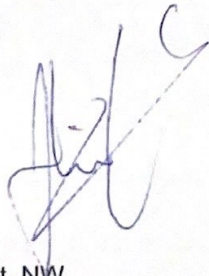
5. Deny the Requested Zoning relied due to Objectionable Conditions

I respectfully request that the Board deny the special exception and the variance sought by the Applicant. As an immediately adjacent property, there continue to be objectionable conditions, and the Applicant does not meet the requirements of the law for that reason. Adding outdoor seating will only exacerbate the objectionable conditions, and the trash storage is clearly against the law as well.

Respectfully submitted,

Julian Latimer Clarke

Owner, 1331 35th Street, NW



CERTIFICATE OF SERVICE

I hereby certify that on October 30, 2024, an electronic copy of this submission was served to the following:

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Respectfully Submitted,

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