



December 16, 2024

Meridith Moldenhauer

Direct Phone 202-747-0763
mmoldenhauer@cozen.com

Madeline Shay Williams

Direct Phone 202-280-6508
madelinewilliams@cozen.com

Frederick L. Hill, Chairperson
Board of Zoning Adjustment
441 4th Street, NW, Suite 200S
Washington, D.C. 20010

Re: BZA Case No. 21224 – Applicant’s Motion to Late File Revised Self-Certification for 530 Penn Street NE (Square 3594, Lot 0006)

Dear Chairperson Hill and Honorable Members of the Board:

The Applicants, Songbyrd LLC (“**Songbyrd**”) and Ai Pop Up LLC (“**Ai Pop Up**”) as tenants at the Property, on behalf of UM 500 Penn Street, NE LLC, an affiliate of EDENS Development, the owner of the Property (collectively, the “**Applicants**”), seeks to amend the Self Certification Form 135 at Exhibit 29A2 following recent communications with the Zoning Administrator and Department of Buildings (“**DOB**”) regarding the use classification of Songbyrd. As such, the Applicant submits to the Board a Motion to Late File a Revised Self-Certification Form 135 attached at **Tab A**.

When Songbyrd first opened in 2021, it operated primarily as a restaurant with live entertainment, as reflected on the Certificate of Occupancy, CO2102537 attached at **Tab B**. Over time, the business shifted toward providing dining services primarily during music events at Songbyrd. As a result, the Zoning Administrator and DOB classify Songbyrd’s current operations as an entertainment, assembly, and performing arts use as outlined in the BZA Referral Memorandum at Exhibit 29B. Therefore, as both Songbyrd and Ai Pop Up have the same use classification, they require the same areas of zoning relief.

In order to be consistent with the Zoning Administrator’s use classification of Songbyrd, the Applicant submits the attached Revised Self-Certification Form outlining the following areas of relief:

For Songbyrd as an entertainment event space:

- **Special exception relief** under Subtitle X § 901.2 for entertainment, assembly, and performing arts uses in a PDR zone (Subtitle U § 802.1(e)).
- **Variance relief** under Subtitle X § 1000.1 from the condition that entertainment, assembly, and performing arts uses in a PDR zone shall not abut a residential use or zone (Subtitle U § 802.1(e)(2)).

LEGAL\74618356\1

For Ai Pop Up as an entertainment event space:

- **Special exception relief** under Subtitle X § 901.2 for entertainment, assembly, and performing arts uses in a PDR zone (Subtitle U § 802.1(e)).
- **Variance relief** under Subtitle X § 1000.1 from the condition that entertainment, assembly, and performing arts uses in a PDR zone shall not abut a residential use or zone (Subtitle U § 802.1(e)(2)).

Advisory Neighborhood Commission 5D and the surrounding community are aware of Songbyrd's existing operations and support its continued use and this BZA application. If you have any questions, please do not hesitate to contact me on behalf of the Applicants. Thank you for your attention to this application and the Applicants respectfully request that the Board approve the application on December 18, 2024.

Sincerely,

COZEN O'CONNOR



Meridith Moldenhauer
2001 M Street NW, Suite 500
Washington, D.C. 20036



Madeline Shay Williams
2001 M Street NW, Suite 500
Washington, D.C. 20036

Certificate of Service

I hereby certify that on this 16th day of December, 2024, a copy of this Revised Self-Certification with attachments was served, via email, as follows:

District of Columbia Office of Planning
1100 4th Street SW, Suite E650
Washington, DC 20024
planning@dc.gov

Advisory Neighborhood Commission 5D
c/o Salvador Saucedo-Guzman, Chairperson
Hector Arbuckle, SMD 5D01
5D05@anc.dc.gov
5D01@anc.dc.gov



Meridith Moldenhauer
2001 M Street NW, Suite 500
Washington, D.C. 20036



Madeline Shay Williams
2001 M Street NW, Suite 500
Washington, D.C. 20036

TAB A



BEFORE THE ZONING COMMISSION OR
BOARD OF ZONING ADJUSTMENT FOR THE DISTRICT OF COLUMBIA



FORM 150 – MOTION FORM

THIS FORM IS FOR PARTIES ONLY. IF YOU ARE NOT A PARTY PLEASE FILE A
FORM 153 – REQUEST TO ACCEPT AN UNTIMELY FILING OR TO REOPEN THE RECORD.

Before completing this form, please review the instructions on the reverse side. Print or type all information unless otherwise indicated. All information must be completely filled out.

CASE NO.: 21224

Motion of: ☒ Applicant ☐ Petitioner ☐ Appellant ☐ Party ☐ Intervenor ☐ Other _____

PLEASE TAKE NOTICE, that the undersigned will bring a motion to:

late file revised Form 135 self-certification.

Points and Authorities:

On a separate sheet of 8 ½" x 11" paper, state each and every reason why the Zoning Commission (ZC) or Board of Zoning Adjustment (BZA) should grant your motion, including relevant references to the Zoning Regulations or Map and where appropriate a concise statement of material facts. If you are requesting the record be reopened, the document(s) that you are requesting the record to be reopened for must be submitted separately from this form. No substantive information should be included on this form (see instructions).

Consent:

Did movant obtain consent for the motion from all affected parties?

- ☐ Yes, consent was obtained by all parties ☐ Consent was obtained by some, but not all parties
☒ No attempt was made ☐ Despite diligent efforts consent could not be obtained

Further Explanation: The revised self-certification is submitted in accordance with the Zoning Administrator's revised BZA Referral Memo.

CERTIFICATE OF SERVICE

I hereby certify that on this 1st 6th day of December Month, 2nd 0th 2nd 4th

I served a copy of the foregoing Motion to each Applicant, Petitioner, Appellant, Party, and/or Intervenor, and the Office of Planning

in the above-referenced ZC or BZA case via: ☐ Mailed letter ☐ Hand delivery ☒ E-Mail ☐ Other _____

Signature: 

Print Name: Meredith Moldenhauer

Address: 2001 M Street NW, Suite 500, Washington, D.C. 20036

Phone No.: 202-747-0763 E-Mail: mmoldenhauer@cozen.com



BEFORE THE BOARD OF ZONING ADJUSTMENT
DISTRICT OF COLUMBIA



FORM 135 – ZONING SELF-CERTIFICATION

Project Address(es)	Square	Lot(s)	Zone District(s)
530 Penn Street NE	3594	0006	PDR-1
Single-Member Advisory Neighborhood Commission District(s):	5D01		

CERTIFICATION

The undersigned agent hereby certifies that the following zoning relief is requested from the Board of Zoning Adjustment in this matter pursuant to:

Relief Sought	<input type="checkbox"/> X § 1000.1 - Use Variance	<input checked="" type="checkbox"/> X § 1002.1 - Area Variance	<input checked="" type="checkbox"/> X § 901.1-Special Exception
Pursuant to Subsections		Subtitle U § 802.1(e)(2)	Subtitle U § 802.1(e)

Pursuant to 11 DCMR Y § 300.6, the undersigned agent certifies that:

- (1) the agent is duly licensed to practice law or architecture in the District of Columbia;
- (2) the agent is currently in good standing and otherwise entitled to practice law or architecture in the District of Columbia; and
- (3) the applicant is entitled to apply for the variance or special exception sought for the reasons stated in the application.



The undersigned agent and owner acknowledge that they are assuming the risk that the owner may require additional or different zoning relief from that which is self-certified in order to obtain, for the above-referenced project, any building permit, certificate of occupancy, or other administrative determination based upon the Zoning Regulations and Map. Any approval of the application by the Board of Zoning Adjustment (BZA) does not constitute a Board finding that the relief sought is the relief required to obtain such permit, certification, or determination.

The undersigned agent and owner further acknowledge that any person aggrieved by the issuance of any permit, certificate, or determination for which the requested zoning relief is a prerequisite may appeal that permit, certificate, or determination on the grounds that additional or different zoning relief is required.

The undersigned agent and owner hereby hold the District of Columbia Office of Zoning and Department of Consumer and Regulatory Affairs harmless from any liability for failure of the undersigned to seek complete and proper zoning relief from the BZA.

The undersigned owner hereby authorizes the undersigned agent to act on the owner's behalf in this matter.

I/We certify that the above information is true and correct to the best of my/our knowledge, information and belief. Any person(s) using a fictitious name or address and/or knowingly making any false statement on this form is in violation of D.C. Law and subject to a fine of not more than \$1,000 or 180 days imprisonment or both.
(D.C. Official Code § 22 2405)

 Owner's Signature		UM 500 Penn Street NE LLC Owner's Name (Please Print)				
 Agent's Signature		Meridith Moldenhauer Agent's Name (Please Print)				
Date	12/16/24	D.C. Bar No.	494695	or	Architect Registration No.	

INSTRUCTIONS

Any request for self-certification that is not completed in accordance with the following instructions shall not be accepted.

1. All self-certification applications shall be made on this form. All certification forms must be completely filled out (front and back) and be typewritten or printed legibly. All information shall be furnished by the applicant. If additional space is necessary, use separate sheets of 8½" x 11" paper to complete the form.
2. Complete one self-certification form for each application filed. Present this form with the Form 120 - Application for Variance/Special - Exception to the Office of Zoning, 441 4th Street, N.W., Suite 200-S, Washington, D.C. 20001.

ITEM	EXISTING CONDITIONS	MINIMUM REQUIRED	MAXIMUM ALLOWED	PROVIDED BY PROPOSED CONSTRUCTION	VARIANCE Deviation/Percent
Lot Area (sq. ft.)	64,996 sq. ft.	n/a	n/a	n/a	n/a
Lot Width (ft. to the tenth)	190.9 ft.	n/a	n/a	n/a	n/a
Lot Occupancy (building area/lot area)	21%	n/a	n/a	n/a	n/a
Floor Area Ratio (FAR) (floor area/lot area)	0.21	n/a	2.0	n/a	n/a
Parking Spaces (number)	0 spaces	0 spaces	n/a	n/a	n/a
Loading Berths (number and size in ft.)	0	0	n/a	n/a	n/a
Front Yard (ft. to the tenth)	n/a	n/a	n/a	n/a	n/a
Rear Yard (ft. to the tenth)	n/a	n/a	n/a	n/a	n/a
Side Yard (ft. to the tenth)	n/a	n/a	n/a	n/a	n/a
Court, Open (width by depth in ft.)	n/a	n/a	n/a	n/a	n/a
Court, Closed (width by depth in ft.)	~108 ft. x ~130 ft. = ~14,040 sq. ft.	50 sq. ft.	n/a	n/a	n/a
Height (ft. to the tenth)	~20 ft.	n/a	50 ft.	n/a	n/a



If you need a reasonable accommodation for a disability under the Americans with Disabilities Act (ADA) or Fair Housing Act, please complete Form 155 - Request for Reasonable Accommodation.

TAB B

Government of the District of Columbia
Department of Consumer and Regulatory Affairs

1100 4th Street SW
Washington DC 20024
(202) 442 - 4400
dcra.dc.gov



C_oF_O

CERTIFICATE OF OCCUPANCY

PERMIT NO. CO2102537



Issued Date: 07/16/2021

Address: 540 PENN ST NE		Zone: PDR-1	Ward: 5	Square: 3594	Suffix:	Lot: 0006
Description of Occupancy: Restaurant - 102 Seats (90 Seats and 137 Max Occupancy Indoors, 12 Seats and 13 Max Occupancy in Summer Garden)						
Permission Is Hereby Granted To: SONGBYRD L.L.C.	Trading As: SONGBYRD	Floor(s) Occupied 1st & Summer Garden	Occupant Load: 150 No. of Seats			
Property Owner: UM 500 PENN STREET NE, LLC	Address: P.O. BOX 528 COLUMBIA, SC 29202-0528	BZA/PUD Number:	Occupied Sq. Footage: 2900			
			PERMIT FEE: \$82.50			
Building Permit Number (if applicable)	Type of Application: Ownership Change	Approved Building Code Use Restaurants - A-2: Approved Zoning Code Use Restaurant Approved Zoning General Use Eating and Drinking Establishment				
Conditions/ Restrictions: THIS CERTIFICATE MUST ALWAYS BE CONSPICUOUSLY DISPLAYED AT THE ADDRESS MAIN ENTRANCE, EXCEPT PLACES OF RELIGIOUS ASSEMBLY. Use complies w DCMR Title 11 (Zoning) and Title 12 (Construction). As a condition precedent to the issuance of this Certificate, the owner agrees to conform with all conditions set forth herein, and to maintain the use authorized hereby in accordance with the approved application and plans on file with the District Government and in accordance with all applicable laws and regulations of the District of Columbia. The District of Columbia has the right to enter upon the property and to inspect all spaces whose use is authorized by this Certificate and to require any changes which may be necessary to ensure compliance with all the applicable regulations of the District of Columbia.						
Director: Ernest Chrappah <i>Ernest Chrappah</i>		Permit Clerk ADMIN		Expiration Date:		
7/16/2021 TO REPORT WASTE, FRAUD OR ABUSE BY ANY DC GOVERNMENT OFFICIAL, CALL THE DC INSPECTOR GENERAL AT 1-800-521-1639						