

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



BZA Application No. 21254

1355-1359, LLC

**1359 H Street, NE, 1355 H Street, NE, 1355 Rear H Street, NE, 1357 H Street, NE, and
1361 Linden Court, NE (Square 1027, Lots 163, 139, 140, 144, and 136)**

HEARING DATE: April 30, 2025¹

DECISION DATE: April 30, 2025

SUMMARY ORDER

RELIEF REQUESTED. The application requests the following relief in order to combine five lots and convert to a retail and eating drinking establishment use, an existing semi-detached mixed-use building in the NMU-4/H-A and MU-4 zones:

- Special Exception from the rear yard requirements of Subtitle G § 207.1, pursuant to Subtitle G § 207.14, Subtitle G § 5200.1, and Subtitle X § 901.2 (15 feet minimum, 0 feet existing, 0 feet proposed)
- Special Exception under the eating and drinking establishment use requirements of Subtitle H § 6007.1(e)(2), pursuant to Subtitle X § 901.2
- Special Exception under the fast food establishment use requirements of Subtitle U § 513.1(e), pursuant to Subtitle X § 901.2

The zoning relief requested in this case was self-certified. (Exhibit 33A (Final Revised); Exhibit 31A (2nd Revision); Exhibit 22B (1st Revision); Exhibit 4 (Original).)²

PARTIES. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 6A, 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).

¹ The application was postponed from the original public hearing date of March 26th, 2025, to allow additional time for public notice of the amended application.

² The original self-certification in Exhibit 4 requested special exceptions from the rear yard requirements of Subtitle G § 207.1, relief from the minimum vehicle parking requirements under Subtitle C § 703.2, and relief under the eating of Subtitle H § 6007.1(e)(2) and the drinking establishment use requirements and the fast food establishment use requirements of Subtitle U § 513.1(f). Subsequently the Applicant added a request for an area variance from the floor area ratio (FAR) requirements of Subtitle H § 903. After consultation with the District of Columbia Zoning Administrator as referenced in Exhibit 31, the Applicant submitted a revised self-certification in Exhibit 31A withdrawing the request for the previously requested area variance and the special exception from the minimum vehicle parking requirements. Finally, the Applicant submitted a final revised self-certification in Exhibit 33A to update the second-floor lot occupancy calculation.

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 February 13, 2025, at which a quorum was present, the ANC voted to support the application. (Exhibit 21.) The ANC report raised no issues or concerns.

OFFICE OF PLANNING ("OP") REPORT. OP submitted a report recommending approval of the application. (Exhibit 59.) The OP recommendation was based on a condition of approval regarding trash storage that the Board adopted into the order.

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 58.)

PERSONS IN SUPPORT. The Board received 27 letters in support of the application. (Exhibits 19, 20, 29, 34-57.)

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 special exception relief can be granted because:

- It is in harmony with the general purpose and intent of the Zoning Regulations and Map;
- It will not tend to affect adversely the use of neighboring property; and
- Pursuant to Subtitle X § 901.2(c), the relief satisfies the specified conditions for special exception relief.

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:

- Special Exception from the rear yard requirements of Subtitle G § 207.1, pursuant to Subtitle G § 207.14, Subtitle G § 5200.1, and Subtitle X § 901.2 (15 feet minimum, 0 feet existing, 0 feet proposed)
- Special Exception under the eating and drinking establishment use requirements of Subtitle H § 6007.1(e)(2), pursuant to Subtitle X § 901.2

- Special Exception under the fast food establishment use requirements of Subtitle U § 513.1(e), pursuant to Subtitle X § 901.2

Accordingly, it is **ORDERED** that the application is **GRANTED** consistent with the plans shown in Exhibit 33B of the record, as required under Subtitle Y §§ 604.9 and 604.10, subject to the following **CONDITIONS**:

1. All trash for tenants that have obtained a Certificate of Occupancy for fast-food shall be stored in indoor trash rooms within the main building envelope, such as those shown on Sheet A103 of Exhibit 33B, until such time as the trash is removed from the premises by a garbage contractor. No dumpsters or other trash or recycling containers serving the fast-food uses shall be kept in public space. Exterior doors to any trash rooms shall be kept closed except when in use by tenants depositing trash or by the contractor removing trash.

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. PARDIN

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 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.

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.