

Before the Board of Zoning Adjustment, D.C.

PUBLIC HEARING - November 12, 1969

Appeal No. 10228 United Unions, Inc., appellant.

THE ZONING ADMINISTRATOR OF THE DISTRICT OF COLUMBIA, appellee.

On motion duly made, seconded and unanimously carried, the following Order of the Board was entered at the meeting of April 22, 1970.

EFFECTIVE DATE OF ORDER - May 12, 1970

ORDERED:

That the appeal for permission to erect SP office building for non-profit organizations and roof structures in accordance with provisions of Section 3308 at 1740 New York Avenue, NW., lot 32, Square 171, be granted.

FINDINGS OF FACT:

1. The subject property is located in an SP District.
2. The property is presently vacant.
3. The total area of appellant's lot is 31,300 square feet.
4. Appellant proposes to erect a nine (9) story SP office building for non-profit organizations with roof structure to house mechanical equipment and one toilet for mechanical engineers.
5. The area of the proposed building is 169,020.0 square feet with an FAR of 5.4.
6. The area of the proposed roof structure is 8,256 square feet with an FAR of .263.
7. The material and color of the street facade of the building will be precast concrete with beige colored exposed aggregate with matching roof structure.
8. This appeal was filed and heard under plan by James H. Cosgrove Associates, Architects, drawings numbered 1,2,3,4,5,6, and 7, approved as noted by Arthur P. Davis, architect-member of the Board.

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9. Appellant amends this appeal to permit occupancy as headquarters for the United Unions, Inc.

10. The Department of Highways and Traffic offers no objection to the granting of this appeal, but recommends that a bay be constructed on the E Street side of the building to store vehicles waiting to enter the garage.

11. No opposition to the granting of this appeal was registered at the public hearing.

OPINION:

The Board concludes that the roof structures of this proposed office building will harmonize with the street frontage of the building in architectural character, material, and color. The roof structures are in harmony with the purpose and intent of the Zoning Regulations and will not tend to affect adversely the use of nearby and adjoining property.

The Board is of the opinion that permission for the proposed occupancy is in keeping with the letter, intent, and purpose of Section 41 of the Zoning Regulations.

We are further of the opinion that the proposed use will be in harmony with the general purpose and intent of the Zoning Regulations and maps and will not tend to adversely affect the use of neighboring property.

The Board retains jurisdiction over the use of space in the subject building by non-profit organizations.

This Order does not limit the floor area or location of the approved organizations within the building.

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED:

By:



CHARLES E. MORGAN
Secretary of the Board

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May 12, 1970

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THAT THE ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS ONLY UNLESS APPLICATION FOR A BUILDING AND/OR OCCUPANCY PERMIT IS FILED WITH THE DIRECTOR OF INSPECTIONS WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER.

Before the Board of Zoning Adjustment, D.C.

PUBLIC HEARING - January 13, 1971

Appeal No. 10228 United Unions, Inc., appellant.

THE ZONING ADMINISTRATOR OF THE DISTRICT OF COLUMBIA, appellee.

On motion duly made, seconded and unanimously carried, the following SUPPLEMENTAL ORDER of the Board was entered at the meeting of January 19, 1971.

EFFECTIVE DATE OF ORDER - March 4, 1971

ORDERED:

That the appeal for permission to erect SP office building for non-profit organization and roof structures in accordance with provisions of Section 3308 at 1740 New York Avenue, NW., Lot 32, Square 171, be granted.

FINDINGS OF FACT:

1. The appellant presented a change in plans from that which had been previously granted in this appeal (10228) effective, May 12, 1970.

2. The changes proposed are:

[a] Sheet A-5, changes the auditorium to a multi-purpose room and a large part of the office area to a future dining room and kitchen. The remainder of the ground floor is foyer, office space and toilets as previously approved. (See Exhibit No. 9)

3. No opposition to the granting of this appeal was registered at the public hearing.

OPINION:

We are of the opinion that the appellant's change of plans are in keeping with the general purpose and intent of the Zoning Regulations and Maps and will not tend to adversely affect the use of neighboring property.

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March 4, 1971
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OPINION Cont'd :

This Order shall not change the previous Order except as to the plan changes indicated.

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED:

A handwritten signature in cursive script, appearing to read "P.E. Kelly", is written over a horizontal line.

By :

PATRICK E. KELLY
Secretary of the Board

Before the Board of Zoning Adjustment, D.C.

PUBLIC HEARING - April 14, 1971

Appeal No. 10740 United Unions, Inc., appellant.

THE ZONING ADMINISTRATOR OF THE DISTRICT OF COLUMBIA, appellee.

On motion duly made, seconded and unanimously carried, the following AMENDMENT in the Order of the Board was entered at the meeting of July 20, 1971.

EFFECTIVE DATE OF AMENDMENT - July 22, 1971

ORDERED:

That the appeal for a variance from the use provisions of the SP District to permit banking facilities to serve the occupants of the headquarters building, United Unions, Inc., or in the alternative variance from the provisions of Section 4101.52 to permit same as an accessory use at 1750 New York Avenue, NW., Lot 32, Square 171, be amended.

UNDER CONDITION "o" to read:

No teller shall be provided by the bank for the general public. That such services shall be limited to the Unions occupying said building.

UNDER CONDITION "n" to read:

The location of said banking facilities shall be on the second floor as outlined on Exhibit No. 2, Page A-20, marked in red and initialed by the Secretary of the Board.

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED:

By: _____

GEORGE A. GROGAN
Secretary of the Board

Before the Board of Zoning Adjustment, D.C.

PUBLIC HEARING - April 14, 1971

Appeal No. 10740 United Unions, Inc., appellant.

THE ZONING ADMINISTRATOR OF THE DISTRICT OF COLUMBIA, appellee.

On motion duly made, seconded and carried, with Mr. McIntosh dissenting, the following Order of the Board was entered at the Executive Session of the Board on May 18, 1971:

EFFECTIVE DATE OF ORDER - July 9, 1971

ORDERED:

That the appeal for a variance from the use provisions of the S-P District to permit banking facilities to serve the occupants of the headquarters building, United Unions, Inc., or in the alternative variance from the provisions of Section 4101.52 to permit same as an accessory use at 1750 New York Avenue, N.W., Lot 32, Square 171, be conditionally granted.

FINDINGS OF FACT:

1. The subject property is located entirely within an S-P zoning district.

2. Under construction at the site is an office building to be occupied by five international unions.

3. Applicant wishes to establish within the building a small accessory-type banking facility to serve only the needs of the pension and welfare funds of the international unions which will occupy the headquarters building. (National Savings and Trust Co.)

4. Applicant at public hearing amended its application to request establishment of the "special" banking facilities as an accessory use to the principal use of the building; namely, offices for the international unions.

5. Applicant established by evidence at public hearing that the proposed use would be incidental to the principal use of the building. Applicant requested a variance from the provisions of Section 4101.52 that require that such accessory use be "customarily" incidental to the principal use.

6. Applicant states that there are no other buildings such as the type proposed housing a large number of unions and, consequently, the requirement of "customarily" incidental cannot be established. However, it was established by evidence that international unions of the type that will occupy the subject premises do customarily use special banking facilities to accommodate

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July 7, 1971

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their pension funds and other routine financial matters. In this sense, the type of banking facilities proposed under the conditions hereinafter set forth clearly are customarily incidental to the existence of large international unions, even though such accessory uses in most cases are located elsewhere than on the lot upon which the principal use is located.

7. The proposed banking facilities will be located in a manner so that no part of the use is visible from the public sidewalk.

8. There was no opposition to this appeal contained in the file or registered at public hearing.

OPINION:

The Board is of the opinion that the requested relief for the establishment of the banking facilities at the subject property may be established pursuant to Section 4101.52 as an accessory use. The Board further finds that applicant has established a hardship within the meaning of the Zoning Regulations to allow a variance to be granted from the word "customarily" as contained in Section 4101.52 of the Zoning Regulations. The Board also is of the opinion that the relief can be granted without detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zone Plan as embodied in the Zoning Regulations and Maps.

CONDITIONS:

This Order shall be subject to the following conditions:

- (a) No advertising on the windows or exterior of the building shall be permitted for the banking facilities.
- (b) No direct off-street entrance shall be provided to the banking facilities and access will be only through the lobby of the building.
- (c) No walk-up windows or night depository will be provided.
- (d) No off-street parking for this facility will be provided.
- (e) No real estate services of any nature will be provided by the banking facility; for example, mortgage loan application, construction financing, etc.
- (f) Investment research services, such as statistical information, investment reviews and reports, security analyses and portfolio management, will be limited to the five international unions.
- (g) Income Tax Department services will be prohibited in these banking facilities.

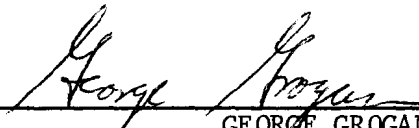
July 7, 1971

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- (h) Corporate trust facilities will be limited to the five international unions.
- (i) Lock box operation will not be handled through the subject facilities.
- (j) Trust Department functions, such as executor, trustee, guardian, agent, administrator of estates, dividend paying agent, trustee under bond issues, and other fiduciary capacities, will be handled through facilities other than the accessory use banking facilities.
- (k) Safe deposit vaults, purchase, sale, exchange or redemption orders executed, coupons collected, safe keeping facilities, will be limited to the five international unions.
- (l) Trust Department services such as management of pension funds and welfare funds will be limited to the five international unions.
- (m) Paying and receiving operations shall be curtailed with only a minimum of facilities provided.
- (n) This use shall be provided on the second floor or above.
- (o) No tellers shall be provided by the bank.
- (p) The use shall be extended only to National Savings and Trust Co.

BY ORDER OF THE D. C. BOARD OF ZONING ADJUSTMENT

ATTESTED:

By: 
GEORGE GROGAN
Secretary of the Board

THAT THE ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS ONLY UNLESS APPLICATION FOR A BUILDING AND/OR OCCUPANCY PERMIT IS FILED WITH THE DIRECTOR OF INSPECTIONS WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER.

Before the Board of Zoning Adjustment, D. C.

AMENDMENT

Application No. 10740 of United Unions, Inc., pursuant to Section 8207.1 for a variance from the use provisions of the S.P. District to permit banking facilities to serve the occupants of the Headquarters Building, United Unions Inc., or in the alternative, a variance from the provisions of Section 4101.52 to permit the same as an accessory use at 1750 New York Avenue, N. W., Lot 32, Square 171.

ORDERED:


That Condition "N" of the Board's amended order dated July 22, 1971 be amended to read:

- (n) The location of said banking facilities shall be on the second floor or above.

VOTE: 3-0 (Lilla Burt Cummings abstaining & Mr. Harps not present, not voting.)

BY ORDER OF THE D. C. BOARD OF ZONING ADJUSTMENT

ATTESTED By:


JAMES E. MILLER
Secretary to the Board

FINAL DATE OF ORDER: **MAR 06 1974**

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 12498, of United Unions, Inc., pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the use provisions (Section 4101) to permit a restaurant in the SP District at the premises 1750 New York Avenue, N.W., (Square 171, Lot 33).

HEARING DATE: October 19, 1977

DECISION DATES: November 3, 1977 and January 4, 1978

FINDINGS OF FACT:

1. The subject property is located at the lower level of 1750 New York Avenue, N.W., at the intersection of E and 18th Streets, and is in an SP District.

2. By Board of Zoning Adjustment Order No. 10228, dated May 12, 1970, the Board granted approval to construct an SP office building. By BZA supplemental Order No. 10228, dated March 4, 1971, proposed changes in plans including a dining room and kitchen in the basement to be operated by United Unions were approved.

3. United Unions, Inc., abandoned its plans to operate an employee cafeteria and leased the floor space to a private restaurateur.

4. Certificate of Occupancy No. B-100097 was issued October 27, 1976, to the applicant for a "restaurant, seating capacity of 130 persons, for tenants use only (lower level)," as an accessory use in the building.

5. The lessee and operator of the restaurant, Royal Oak Restaurant, Inc., seeks the Board's permission to include as patrons of the restaurant persons who are not tenants of the subject building. This would be accomplished by placing a sign advertising the restaurant adjacent to the exterior of the building.

6. As a practical matter, at present the restaurant is open to the public, as the lessee cannot and does not request identification from potential patrons.

7. Lessee was formerly the owner of the Nichols Cafe, 614-17th Street, N.W., for 18 years, from November 1955 until December 3, 1973 at which date their premises were vacated for the U.S. Government, which had taken the property along with adjacent properties for the construction of a new Federal Building.

8. The lessee received \$10,000 from the U.S. Government as a relocation allowance.

9. The lessee, in December 1974 signed a lease with the applicant for the installation of a restaurant in the lower level of the building, which at that time was unfurnished and unused.

10. The lessees received a direct Small Business Administration Loan of \$145,000. Alterations and preparation of the space to be used, including plumbing, electrical, metal work, masonry, flooring, etc., cost approximately \$48,000. The applicant contributed \$35,000.

11. As the restaurant neared completion additional funds were needed and a further loan from a bank for \$25,000 was obtained.

12. The total net investment was \$223,000. As security for the loans, the lessees pledged their family residence, the equipment, fixtures, machinery and utensils of the business, personal life insurance and the twenty-year lease of the business.

13. The lessees testified that they relied upon patronage from the tenants of the building alone to meet their obligations, but that such patronage did not materialize in sufficient volume so as to enable the lessees to meet their debts.

14. In order to increase patronage a request was made for permission to place a sign on the building, for the purpose of informing guests and visitors of tenant's in the building of the existence of the restaurant. It is from a denial of such request that this application for a use variance results.

15. The subject site is surrounded by government and office buildings whose business hours are approximately 8:00 A.M. to 5:00 P.M. There are no residences in the subject squares and none in any of the adjoining squares.

16. Pedestrian traffic during the day is quite light and minimal after the closing of adjacent government office buildings.

17. The subject restaurant would be open Monday through Friday.

18. There was no report from Advisory Neighborhood Commission - 2A.

CONCLUSIONS OF LAW:

The Board concludes that this application presents a very limited question, even though the requested relief is for a use variance. The issue at hand is whether to allow the operators of the restaurant to place a sign on the outside of the building indicating the presence of the restaurant in the basement. The Board notes that as a practical matter it is impossible to limit the use of the restaurant to tenants of the building, since it is not reasonable to require each potential patron to identify himself or herself as a tenant. The Board further notes the unique circumstances surrounding the restaurant operator's desire to locate in the vicinity of the prior restaurant, and the substantial amount of money invested in the operation at this point.

The Board is aware of the character of this neighborhood, being mostly commercial and government office buildings, with few if any residences. The Board is further aware of the limited days and hours of operations of the applicant's business. The Board is of the opinion that to grant the relief sought and allow a sign to be located outside the building would have little, if any, adverse impact on the neighborhood and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan. Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:


- a. The size and design of the sign shall be as shown on Exhibit No. 23 of the record.
- b. The sign shall be located on private space.
- c. The sign shall be free standing, permanently affixed to the ground, but not affixed to the building.

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VOTE: 3-2 (Walter B. Lewis, Chloethiel Woodard Smith, and Charles R. Norris, to GRANT, William F. McIntosh and Leonard L. McCants to DENY).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: _____

1 FEB 1978

THAT THE ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS ONLY UNLESS APPLICATION FOR A BUILDING AND/OR OCCUPANCY PERMIT IS FILED WITH THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 12529 of United Unions, Inc., pursuant to Paragraph 8207.11 of the Zoning Regulations, for an amendment to the Board's previous Order No. 10470 and a variance from the use provision (Section 4101) to permit the relocation of a branch bank to the New York Avenue lobby floor in the SP District at the premises 1750 New York Avenue, N.W., (Square 171, Lot 33).

HEARING DATE: December 13, 1977
DECISION DATE: January 4, 1977

FINDINGS OF FACT:

1. The subject property is located at the intersection of 18th Street, New York Avenue and E Street, at 1750 New York Avenue, N. W. and is in an SP District.

2. By BZA Order No. 10740, dated July 9, 1971, the Board conditionally granted the applicant a variance from the use provisions of the SP District to provide banking facilities to serve the occupants of the United Union Headquarters Building. The Board further granted a variance from the word "customarily" as contained in Paragraph 4101.52 of the Zoning Regulations. By BZA Order No. 10740, dated July 22, 1971, the July 9, 1971 Order was amended as to Condition "O" and Condition "N" to read "No teller shall be provided by the bank for the general public. That such services shall be limited to the Unions occupying said building." and "The location of the banking facilities shall be on the second floor as outlined on Exhibit No. 2, Page A-20, marked in red and initialled by the Secretary of the Board."

3. The subject site is 31,300 square feet in area and is improved with a nine-story office building which contains an interior floor space of 171,000 square feet. The building is set back 57.5 feet from the curb line along New York Avenue where the main entrance is located.

4. The surrounding area is comprised predominantly of governmental and private office buildings. There are other commercial banks serving the general area, but none are located in the immediate vicinity of the subject site.

5. The applicant requests permission to relocate the banking operation of National Security and Trust Company from the second floor to the lobby floor (New York Avenue side). The second floor operation has a total floor space of 1,337 square feet, three teller windows, a small safety deposit facility and approximately five employees.

The proposed operation for the lobby floor would have a total floor area of 1,550 square feet (213 square foot increase), five teller windows (increase of two windows) five employees, and a twice-as-large safe deposit facility. The hours of operation would remain the same (9:00 a.m. to 4:00 p.m., Monday thru Friday). In addition, the application requests that the bank be permitted to change its present operations to provide services on an unsolicited basis to occupants of nearby buildings and to provide a small card-operated money dispensing machine on the lobby floor within the building. The Board finds that the effect of these changes is to change the character of the use and expand it beyond what would be accessory to the United Nations principal use.

6. Current banking operations and customers disrupt the business operations of the tenants of the second floor - the International Association of Fire Fighters (IAFF). In addition, there is evidence that the IAFF needs more space to accommodate its operations.

7. Present vault and safekeeping facilities on the second floor have become inadequate to serve the five tenant unions. Moreover, the weight bearing capacity on the lobby floor can accommodate a larger vault which would alleviate the need for the frequent transporting of documents to National Security and Trust's main office at 15th and New York Avenue.

8. Total enclosure of the bank on the second floor makes it highly vulnerable to bank robberies because it is not visible to cruising policemen.

9. Commercial banks are prohibited in SP Districts and are first permitted in commercial districts.

10. The Municipal Planning Office, by report dated December 7, 1977 and by testimony at the hearing, recommended that the application be denied except for that part which requests relocation of the branch bank to the lobby floor. The Municipal Planning Office report states in part and the Board finds that "The enlargement of the originally approved accessory use to a commercial use serving an indefinite clientele would appear to undermine and circumvent the intent and purposes of the provision governing accessory incidental uses in SP Districts found in Sections 4101.5-4101.52 of the Regulations."

11. There was no report from Advisory Neighborhood Commission 2A.

CONCLUSIONS OF LAW:

Based upon the record the Board concludes that the proposed relocation, in conjunction with the expansion of services requested, over an extended period of time, will result in a commercial banking operation at the subject location which would serve the surrounding office area regardless of the fact that the facility would operate on an unsolicited basis without any designation by signs. The Board further concludes that the banking facilities were approved at the subject location as an accessory use with a variance from the word "customarily incidental" because of the unique but incidental needs that the tenant unions had for banking services. These types of services were necessary to assist in the management of the tenant unions' pensions and welfare funds and to provide related money management services. The enlargement of the originally approved accessory use to a commercial use serving an indefinite clientele would undermine and circumvent the intent and purposes of the provisions governing accessory incidental uses in SP Districts.

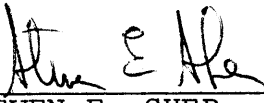
The Board concludes that the issues of needed space on the second floor, the alleviation of office disruption on the second floor, a larger vault and higher visibility to cruising police can be resolved by simply relocating the bank to the first floor. The Prior BZA Orders as aforementioned could thus remain intact except for an amendment to condition "n". The intent and purpose of the SP District would thus be maintained. Accordingly, it is ORDERED that the application to relocate the bank to the lobby floor is GRANTED subject to the CONDITION that all the restrictions contained in Conditions "a" through "p" with the exception of Condition "n" of prior BZA Order No. 10740, dated July 9, 1971, amended July 22, 1971, shall be continued.

VOTE:

3-1 (Charles R. Norris, Chloethiel Woodard Smith and Leonard L. McCants to grant, William F. McIntosh to deny)

BY ORDER OF THE D. C. BOARD OF ZONING ADJUSTMENT

ATTESTED By:



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 5 FEB 1978

THAT THE ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS ONLY UNLESS APPLICATION FOR A BUILDING AND/OR OCCUPANCY PERMIT IS FILED WITH THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18028 of United Unions Inc., pursuant to 11 DCMR §§ 3104.1 and 3103.2, for a special exception to allow retail and service uses under section 518¹, and variances to allow an addition to a nonconforming office building exceeding the allowable floor area ratio limitations under subsections 531.1 and 2001.3, in the SP-2 District at premises 1750 New York Avenue, N.W. (Square 171, Lot 33).

HEARING DATE: February 23, 2010

DECISION DATE: February 23, 2010

SUMMARY ORDER

SELF CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 5).

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission (ANC) 2A and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2A, which is automatically a party to this application. The ANC filed a report, dated January 27, 2010, indicating that the ANC voted unanimously in support of the application on January 20, 2010, at a duly-noticed, regularly-scheduled meeting at which a quorum was present. (Exhibit 22). Additionally, the ANC testified at the hearing in support of the project. The Office of Planning (OP) submitted a timely report recommending approval of the application.

¹ Section 518 is a newly promulgated regulation pursuant to Zoning Commission Case No. 09-11. The Zoning Commission took final action approving the text amendment on January 11, 2010. The Zoning Commission Order and Notice of Final Rulemaking was published in the *D.C. Register* on February 5, 2010, whereupon it also became effective.

BZA APPLICATION NO. 18028
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(Exhibit 25).² The District Department of Transportation (DDOT) submitted a report indicating DDOT's conditional support of the project.³ (Exhibit 27).

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3103.2, for variances to allow an addition to a nonconforming office building exceeding the allowable floor area ratio limitations under subsections 531.1 and 2001.3. Based upon the record before the Board and having given great weight to the OP and ANC reports filed in this case, the Board concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2, 531.1, and 2001.3, that there exists an exceptional or extraordinary situation or condition related to the property that creates an undue hardship for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

In addition, as directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exception under section 518. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 518, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and

² OP indicated that the building is located across the street from the White House and subject to review by the Commission of Fine Arts. It is located within the boundaries of the Shipstead-Luce Act. (*See*, Exhibit 24, Tab G).

³ DDOT requested certain conditions, namely, DDOT wanted the Applicant to provide some additional transportation related measures, such as a transportation impact study, a plan for managing the deliveries to the retail and service uses once these were completed, and provision for a minimum of 20 bicycle parking spaces and four bicycle racks inside the property for the use of the new employees. DDOT indicated that it reserved the right to refuse public space permits associated with this application and would prefer to see a landscaping improvement on the retaining wall facing 17th Street. At the hearing the Applicant acknowledged the DDOT requests and agreed to several of them. The Board declined to condition the order on DDOT's suggested conditions.

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conclusions of law. It is therefore **ORDERED** that this application be **GRANTED** (pursuant to Exhibits 24 and 30 – Revised Plans) **SUBJECT TO THE FOLLOWING CONDITIONS:**

1. The proposed new uses on or below the ground floor shall be limited exclusively to retail, service, and restaurant uses permitted in Sections 701.1 through 701.5 of the Zoning Regulations.
2. The Applicant is allowed the flexibility to refine the final design of the buildings (as shown on the approved plans in Exhibit 24 and as modified in Exhibit 30), subject to final approval by the Commission of Fine Arts, provided that the final design does not increase the approved floor area ratio of 5.51 or change any other approved zoning relief.

VOTE: **5-0-0** (Marc D. Loud, Shane L. Dettman, Meridith H. Moldenhauer, Nicole C. Sorg, and Michael G. Turnbull to APPROVE.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

The majority of the Board members approved the issuance of this order.

ATTESTED BY: 
JAMISON L. WEINBAUM
Director, Office of Zoning

FINAL DATE OF ORDER: MAR 04 2010

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN SIX MONTHS AFTER IT BECOMES EFFECTIVE UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD.

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE

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REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

PURSUANT TO 11 DCMR § 3130, 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 PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 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, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION.

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, STATUS AS A VICTIM OF AN INTRAFAMILY OFFENSE, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



BZA APPLICATION NO. 18028

As Director of the Office of Zoning, I hereby certify and attest that on MAR 04 2010 a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

Normal M. Glasgow, Jr., Esq. and Kyrus L. Freeman, Esq.
Holland & Knight
2099 Pennsylvania Avenue, N.W., Suite 100
Washington, D.C. 20006

Chairperson
Advisory Neighborhood Commission 2A
West End Branch Library, 1101 24th Street, N.W.
Washington, D.C. 20037

Single Member District Commissioner 2A05
Advisory Neighborhood Commission 2A
2440 Virginia Avenue, N.W., #D-1207
Washington, D.C. 20037

Jack Evans, Councilmember
Ward Two
1350 Pennsylvania Avenue, N.W.
Suite 106
Washington, D.C. 20004

Melinda Bolling, Esq.
Acting General Counsel
Department of Consumer and Regulatory Affairs
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BZA APPLICATION NO. 18028
PAGE NO. 2

ATTESTED BY:


JAMISON L. WEINBAUM
Director, Office of Zoning

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19437 of United Unions, Inc., pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under the Downtown-use requirements of Subtitle I § 303.1(b), to permit an eating and drinking establishment on the ground floor of an existing office building in the D-2 Zone at premises 1750 New York Avenue N.W. (Square 171, Lot 33).

HEARING DATE: February 22, 2017
DECISION DATE: February 22, 2017

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 4.) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. 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 application for which additional or different zoning relief is needed.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 2A and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2A, which is automatically a party to this application. The ANC submitted a report recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on January 10, 2017, at which a quorum was present, the ANC voted 6-0-0 to support the application. (Exhibit 30.)

The Office of Planning ("OP") submitted a timely report in support of the application. (Exhibit 34.) The District Department of Transportation ("DDOT") submitted a timely report, dated February 3, 2017, expressing no objection to the approval of the application. (Exhibit 32.)

BZA APPLICATION NO. 19437
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As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for a special exception under the Downtown-use requirements of Subtitle I § 303.1(b), to permit an eating and drinking establishment on the ground floor of an existing office building in the D-2 Zone. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2 and Subtitle I § 303.1(b), that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

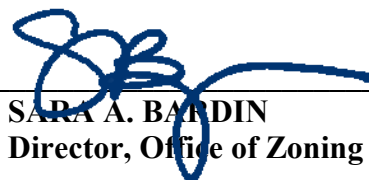
It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 9.**

VOTE: 4-0-1 (Frederick L. Hill, Lesylleé M. White, Carlton E. Hart, and Michael G. Turnbull 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: February 24, 2017

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

BZA APPLICATION NO. 19437
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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 ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.