

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA Application No. 20974
RVP H St NW, LLC
505-517 H Street, NW (Square 2771, Lots 3, 30, 42, 43, 44, 48)

HEARING DATE: March 27, 2024
DECISION DATE: April 10 and May 1, 2024

SUMMARY ORDER

RELIEF REQUESTED. The application requests the following relief in order to construct a nine-story addition with approximately 85 lodging units (but ranging from 60-120 units) to an existing commercial building in the D-4-R zone:

- Special Exception from the loading requirements of Subtitle C § 901.1, pursuant to Subtitle C § 909.2 and Subtitle X § 901.2
- Area Variance from the rear yard requirements of Subtitle I § 205.1, pursuant to Subtitle X § 1002

The zoning relief requested in this case was self-certified. (Exhibit 114 (Revised)).¹

PARTIES. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 2C, 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).

The Board denied a request for Party Status in Opposition to the Wah Luck House Tenants' Association, located at 600 8th Street NW, at the March 27, 2024 Public Hearing.

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 initial report indicated that at a regularly scheduled, properly noticed public meeting on June 13, 2023, at which a quorum was present, the ANC voted to support the application. (Exhibit 23.) The ANC report raised no issues or concerns.

The ANC submitted a supplemental statement on April 5, 2024, noting that on January 9, 2024, the ANC voted to support the relief from the loading and rear yard requirements, and encouraging

¹ The application was amended to withdraw area variance relief from the Chinatown sub-area ground floor use requirements of Subtitle I § 609.5(a) and (c).

the developer to find retail uses for the sub-grade units. (Exhibit 111.) The ANC report raised concerns regarding the reduction in retail space and expressed support for the Wah Luck House Tenants' Association. The Board noted at the Public Meeting that the Applicant appeared to address the ANC's retail concerns by withdrawing the variance relief from the ground floor use requirements of Subtitle I § 609.5(a) and (c).

OFFICE OF PLANNING (“OP”) REPORT. OP submitted a report recommending approval of the application. (Exhibit 49.) OP's recommendation included a condition regarding the implementation of a loading management plan as approved by DDOT. The Board adopted the loading management plan as a condition of the order.

DISTRICT DEPARTMENT OF TRANSPORTATION (“DDOT”) REPORT. DDOT submitted a report indicating that it had no objection to the approval of the application because it concluded that the relief would result in minor impacts to the District's transportation network. (Exhibit 50.) DDOT recommended two conditions regarding a loading management plan and a transportation demand management plan. The plans were adopted by the Board as conditions of the final order.

HISTORIC PRESERVATION REVIEW BOARD (“HPRB”). On January 25, 2024, HPRB approved the project concept with conditions and referred the application to the Historic Preservation Office for further review. (Exhibit 40B.)

PERSONS AND ORGANIZATIONS IN SUPPORT. The Board received eight letters from individuals as well as local businesses and organizations in support of the application. (Exhibits 31-34, 38, 45, 55, 56.)

PERSONS AND ORGANIZATIONS IN OPPOSITION. The Board received 44 letters from individuals and organizations in opposition to the application. (Exhibits 53, 58-72, 74-94, 96-101, 105.)

The Wah Luck House Tenants' Association (“WLHTA”) was denied Party Status in Opposition, however, several filings were submitted to the record stating their opposition to the reduction in retail spaces and concerns about displacement of the Chinese community in Chinatown. As noted previously, the Applicant withdrew the area variance relief request from the Chinatown sub-area ground floor use requirements of Subtitle I § 609.5(a) and (c) in response to community concerns. As part of their outreach to the WLHTA, the Applicant made three proposals, including demonstrating: 1) the Applicant has marketed the retail space(s) to potential tenants that emphasize Chinese or Asian cultural uses, services, merchandise, and/or community facilities; 2) the Applicant or the Hotel Operator has hosted a job fair at the Wah Luck House for the benefit of Wah Luck House tenants and their invitees; and, 3) the Applicant has paid for/hired a contractor to build-out space in the Wah Luck House for use as a hair salon. (Ex. 109A.)

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 and variance 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;
- Pursuant to Subtitle X § 901.2(c), the relief satisfies the specified conditions for special exception relief;
- 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:

- Special Exception from the loading requirements of Subtitle C § 901.1, pursuant to Subtitle C § 909.2 and Subtitle X § 901.2
- Area Variance from the rear yard requirements of Subtitle I § 205.1, pursuant to Subtitle X § 1002

Accordingly, it is **ORDERED** that the application is **GRANTED** consistent with the plans shown in Exhibit 113 of the record, with the flexibility to modify the plans to make revisions needed to respond to additional feedback from HPRB and HPO, provided that any changes made to the approved plans shall not expand the special exception or variance relief approved in this order, or create any new areas of relief that would require further review by the Board, subject to the following **CONDITION**:

1. The Applicant shall implement the Transportation Demand Management Plan on page 7 and the Loading Management Plan on pages 5-6 in the DDOT Report in Exhibit 50.

VOTE: 3-0-2 (Frederick L. Hill, Chrishaun S. Smith, and Tammy M. Stidham to APPROVE; Lorna L. John and Carl H. Blake not participating)

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: May 9, 2024

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.