



**BEFORE THE ZONING COMMISSION AND
BOARD OF ZONING ADJUSTMENT OF THE DISTRICT OF COLUMBIA**



FORM 129 – ADVISORY NEIGHBORHOOD COMMISSION (ANC) REPORT

Before completing this form, please review the instructions on the reverse side.

Pursuant to §§ 3012.5 and 3115.1 of Title 11 DCMR Zoning Regulations, the written report of the Advisory Neighborhood Commission (ANC) shall contain the following information:

IDENTIFICATION OF APPEAL, PETITION, OR APPLICATION:

Case No.:	BZA #19887	Case Name:	MARJORIE HUTCHINSON
Address or Square/Lot(s) of Property:	1724 NORTH CAPITOL ST NE (SQUARE 3105, LOTS 72)		
Relief Requested:	VARIANCE IN USE		

ANC MEETING INFORMATION

Date of ANC Public Meeting:	2	0	/	11	11	/	1	8	Was proper notice given?:	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
Description of how notice was given:	Notice given seven calendar days prior to the ANC 5E meeting. This meeting was properly noticed by using community listservs, websites, and blogs. Each Commissioner posted the meeting agenda at four conspicuous places in their respective Single Member Districts.												
Number of members that constitutes a quorum:	six				Number of members present at the meeting:	nine							

MATERIAL SUBSTANCE

The issues and concerns of the ANC about the appeal, petition, or application as related to the standards of the Zoning Regulations against which the appeal, petition, or application must be judged (*a separate sheet of paper may be used*):

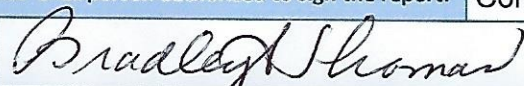
Owner presented previously to the Bloomingdale Civic Association which supported the applicant's request for a variance in use. Owner presented to the ANC 5E at its November monthly meeting. ANC 5E's discussion and analysis of the request is noted in the attached Memorandum.

The recommendation, if any, of the ANC as to the disposition of the appeal, petition, or application (*a separate sheet of paper may be used*):

ANC 5E by an unanimous vote supports applicant's request for a variance in use. ANC 5E determined a lack of adverse impact on neighborhood, compatibility and appropriateness of proposed use, undue hardship to the owner if variance is not acquired and strong community support for proposed use.

The ANC 5E recommends that the Board of Zoning Adjustment vote to approve the applicants request for a Variance in Use.

AUTHORIZATION

ANC	5	E	Recorded vote on the motion to adopt the report (i.e. 4-1-1):	9-0-0
Name of the person authorized by the ANC to present the report:			Commissioner Bertha Holiday	
Name of the Chairperson or Vice-Chairperson authorized to sign the report:			Commissioner Bradley A Thomas, Chairperson	
Signature of Chairperson/ Vice-Chairperson:				Date: 11/20/2018

MEMORANDUM

DATE: December 4, 2018
TO: DC Board of Zoning Adjustment
FROM: ANC 5E-- Bradley Thomas, Chair
SUBJ: BZA Case # 19887 – Request for variance in use of 1724 North Capitol Street, NW – Jam Doung Restaurant

Dear Board of Zoning Adjustment Members::

On November 20, 2018, at a regularly scheduled, duly publicly called meeting with quorum (N=6) present, ANC 5E by a vote of 9 ayes, 0 nays, and 0 abstentions, voted to support the above noted application for a variance in use. This memorandum seeks to provide information and justification for the ANC's unanimous support.

Background

The property under consideration is located in the gentrifying, but still diverse historic Bloomingdale neighborhood. This neighborhood overwhelmingly consists of century-old brick rowhouses, with small business establishments clustered around 1st and Rhode Island NW and North Capitol St. NW, and others scattered throughout the neighborhood – especially in former corner stores. Historically, the neighborhood had a thriving small business community that was significantly disrupted by the 1968 MLK riots in Bloomingdale that targeted its commercial clusters. Since then, commercial and small business revitalization/development has been a major neighborhood concern. These efforts have been nurtured by the city-funded North Capitol Main Street program and advocated by the DC Office of Planning.

During the past 15 years, the neighborhood has become known throughout DC for intimate, lively restaurants and bars, nearly all of which were established prior to the 2016 zoning map revisions, and carved out of long-vacant rowhouses with storefronts formerly used as corner stores, groceries, hair salons and barber shops, used furniture stores, hardware stores, ice cream shops, firehouse, movie theater, etc. More recently, the neighborhood's small business revitalization has increasingly focused on resident's needs -- e.g. childcare, arts space, and other personal services. Unquestionably, a total absence of relief from strict application of 2016 Zoning Map revisions will stymy small business development in Bloomingdale and other longstanding older residential neighborhoods.

The current owners of 1724 North Capitol St., NW have been proprietors of a successful Jamaican culinary carry-out eatery for nearly 20 years. That eatery is located next door to 1724 North Capitol St., NW, which the proprietors recently purchased. A portion of that building had been used for more than 40 years as a hair salon. It is the new owner's

intention to use the property for mixed-use purposes with a sit-down restaurant on the ground and first floor levels, and the remainder of the building (2nd floor level) to be used for residential purposes – including an apartment in which one of the owners will reside.

Upon applying for building permits, the owner was informed that she would need to submit an application for a variance in use. This came as a surprise, as many buildings on the 1700 block of North Capitol NW have a long history of mixed use (commercial and residential) – including both 1724 and 1726 North Capitol St., NW, which according to the DC Office of Planning, previously had the status of “legally non-conforming use”, due to their commercial use prior to 1958. However, the 2016 Zoning Map revisions zoned both properties as RF-1 (residential use only).

According to DC Codes, a request for a variance in use is required when the proposed use is incompatible with the current zoning. Currently, 1724 North Capitol St., NW is zoned RF-1. According to DC Codes, consideration of use variance applications includes:

- a) whether adverse impacts will result from a change in use;
- b) whether there is something unique about the property that makes it compatible or appropriate for the proposed use, and most important,
- c) based on its uniqueness, whether the failure to acquire a use variance would result in undue hardship to the owner.

According to Office of Planning staff, typically, the burden is placed on applicants for a variance in use to demonstrate that the property cannot be developed for its zoned use.

ANC 5E’s Rationale for Support of Application for Variance in Use

The presentation of ANC’s rationale for support is guided by the 3 criteria for consideration of variance in use applications.

- **Adverse Neighborhood Impacts:** 1724 North Capitol St. NW has longstanding commercial/residential use, with “legally non-conforming status”. Its neighbor at 1726 is the site of the applicant’s current carry-out eatery. Thus, the relocation from 1726 to 1724 will not be experienced by neighbors as a “new use” – but rather as an “upgraded use” –both relative to the quality and expansion of service at Jam Doung, and the use and renovation of a long vacated distressed building on the corner of a major traffic corridor. No negative written comments about the owners’ current or proposed operations have been shared with ANC 5E. It is expected that the location of a large permanent sealed trash receptacle immediately outside the kitchen on the ground level should significantly minimize any rodent control concerns. Bloomingdale is very familiar with the presence of outdoor commercial eating areas. Indeed, almost every restaurant in Bloomingdale has a sidewalk café or summer garden. In the past, neighbor concerns about noise from such areas have been addressed through personal discussions with owners or negotiated written agreement. The significant community support for the variance in use application is evidenced by its inclusion of a large number of petitions and letters of support, as well as the unanimous vote of support of the membership of the Bloomingdale Civic Association at its November 19, 2018 meeting. Jam Doung

is a community asset that is valued as a very affordable fresh food eating option (e.g. daily specials of a complete meal for \$7 and \$8). Of course, restaurant service will probably require increased pricing, but even so, the pricing should be significantly less than that of most Bloomingdale restaurants.

- Property Uniqueness that is Compatible or Appropriate for Proposed Use. The property is extremely unique as it offers the possibility of providing both carry-out and sit-down service for a clientele that has been well-established over a nearly 20-year period. The property is also unique in so far as it has been vacant for many years, will require major renovation, and thus will become a neighborhood asset and major source of additional commercial revitalization of North Capitol St. NW. The property is literally across the street (Randolph Place) from numerous properties on North Capitol St. NW with MU-4 Zoning,. Consequently, receipt of a variance in use will make the property what it was until 2016 – a continuation of mixed-use zoning. In this regard, it should be noted that the *Mid-City East Small Area Plan* (DC Office of Planning, 2014) states: “Commercial revitalization opportunities along North Capitol Street should be focused on the area between New York Avenue and Randolph Street [sic.]” (p.77), and additionally recommends activation of foot traffic on North Capitol St. In the regard to the latter, it is proposed that 1724 North Capitol St. NW, as a corner property, will have two entrances: A primary (1st floor) dining entrance fronting North Capitol St. NW and a secondary entrance (ground level) on Randolph Pl. NW. This entrance configuration will increase North Capitol St. NW foot traffic while minimizing additional foot traffic on Randolph Pl. NW.
- Undue Hardship to Owner if Variance in Use is Not Acquired. If a variance in use is not granted, in consideration of the continuously increasing price of Bloomingdale real estate (renovated 3-bedroom rowhouses with finished basements now sell in excess of \$1.3 to \$1.9 million), Jam Doung would probably have to relocate outside of the Bloomingdale and Eckington neighborhoods. Consequently, the owners would lose most of their current clientele, which has been built over nearly 20 years of effort. Such relocation would involve numerous other significant efforts and expenses. Furthermore, gentrifying neighborhoods such as Bloomingdale, typically and unfortunately, are associated with displacement (and more likely termination) of minority-owned businesses.

Conclusion

Through hard work and sharp business acumen, Jam Doung (a minority woman-owned enterprise) has evolved into a successful business enterprise that is positioned to take a major leap amid the processes of gentrification. ANC 5E requests that the Board of Zoning Adjustment review the application for a variance in use within the application’s context, including: a) a gentrifying diverse multi-racial/multicultural residential neighborhood with a wide-range of commercial/small business needs; b) the unique property characteristics including its location next door to current Jam Duong operations; c) the neighborhood assets that will result if variance use is granted; and d) the presence of broad ANC 5E and resident support.

ANC 5E believes, collectively, these contextual issues along with other issues noted in this memorandum, constitute a fact- and reality-based rationale for granting a variance in use. The concern as to whether 1724 North Capitol St. NW cannot be developed in conformity with its RF-1 zoning is hypothetical. The reality is that the property has not been used for years, sitting in a vacant and continuously deteriorating and increasingly blighted condition. No one has offered to develop the property except the owners of Jam Doung in response to the property's unique characteristics that meet Jam Doung's very unique and real needs.

The SMD ANC 5E07 Commissioner will attend the scheduled December 19th hearing on the application and has indicated her willingness to address any questions or concerns you might have about this memorandum.

ANC 5E recognizes the difficulties of your responsibilities, thanks you for your efforts and hard work, and appreciates your careful consideration.