

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
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.