

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13748 of Four Ways, Inc., pursuant to Sub-section 8207.2 of the Zoning Regulations, for special exceptions under Sub-section 7105.2 and Section 7109 to extend a non-conforming restaurant use to the second floor and the restaurant administrative offices to part of the third floor and to continue an outdoor cafe and pursuant to Paragraph 8207.11 of the Zoning Regulations for a variance to make structural alterations for an elevator and dumbwaiter in an R-5-B District at the premises 1701 - 20th Street, N.W., (Square 110, Lot 60).

HEARING DATE: May 26, 1982

DECISION DATE: June 2, 1982

FINDINGS OF FACT:

1. The subject site is located at the northeast corner of the intersection of 20th and R Streets, N.W. and is known as premises 1701 - 20th Street, N.W. It is in an R-5-B District.

2. The application was amended to include variance relief to make structural alterations for an elevator and dumbwaiter. The application, as amended, was so published in the D.C. Register. All parties required to receive notice of the application received the notice as amended. The application appeared on the public hearing agenda without the amendment included.

3. The site is developed with a four story building with cellar and sub-cellar. The building contains a total gross floor area of approximately 14,000 square feet.

4. Originally known as the Scott-Thropp House and currently known as the Fraser House, the subject premises was designated a landmark by the Joint Committee on Landmarks and placed on the National Register of Historic Places in 1974.

5. The house was built in 1890 by architects Hornblower and Marshall for George S. Fraser, a merchant who came to the District of Columbia from New York in 1888. The house was opened for business as the Parrot Tea Room in 1932 with a rooming house upstairs. Later it became the home of the Golden Parrot Restaurant for twenty-four years. Since the Golden Parrot went out of business in 1974, four

restaurants have located in the building and all four have gone out of business.

6. The subject site is currently zoned R-5-B and was zoned First Commercial prior to 1958.

7. Existing certificates of occupancy reveal that the cellar, sub-cellar, first floor and outdoor cafe are available for restaurant purposes. The rooming-house use authorized for the second and third floors has not been maintained for over twenty years. That area was most recently used, without a certificate of occupancy, for offices and storage.

8. The applicant intends to restore and maintain the landmark structure's character and ambiance as a first class restaurant site while making it a much safer structure to occupy. The applicant testified that it has invested over 1.7 million dollars in improving the site.

9. The applicant proposes to extend restaurant service to the second floor and resume the outdoor cafe use in the warmer months. Part of the third floor would be used for the restaurant's administrative offices while the remainder of the site would remain residential and would house the owner and employees of the restaurant. This would be done without alteration or extension to the exterior of the building itself, and would insure the preservation of this historic landmark as a viable enterprise serving the neighborhood. The renovation is economically infeasible as long as the restaurant use is restricted to its currently approved area.

10. The Board in BZA Order No. 12711, dated September 20, 1978, approved an out-door cafe use of the subject premises with certain conditions for a period of two years. That order specified that the cafe would seat a maximum of seventy-five persons.

11. The applicant is an internationally known restaurateur whose philosophy is to provide a handsome atmosphere and good food at reasonable prices. The applicant owns two restaurants and a hotel which have been renovated so that the structure's original decor and furnishings have been either left intact or have been replaced with identical fixtures and fittings.

12. The applicant's renovation and the extension of the restaurant use would increase the average seating capacity by thirty-five people. The cellar will contain a cocktail lounge seating seventy-five persons which is identical to the previous capacity. The first floor restaurant capacity will be increased by twenty-five persons to 125. The second floor, which will only be used for large

group functions, is anticipated to seat fifty people at one time, although if fully utilized, it seats 100 people. The outdoor cafe's capacity has been reduced from eighty to forty because the applicant is providing additional landscaping.

13. Under Sub-section 7105.2, a Class II nonconforming use may be extended to other portions of the structure devoted to such use, provided no structural alterations are made and no other structure is involved in the extension of the nonconforming use. In this instance, the subject property now provides for the nonconforming use of a restaurant in the cellar, sub-cellar, on the first floor and outdoors. The applicant intends to extend this use to the second floor. Also, part of the third floor will be used as administrative offices for the restaurant. Structural alterations are necessary to construct an elevator and a dumbwaiter and therefore, the applicant is also requesting variance relief. In exercising the authority under Sub-section 7105.2, the Board of Zoning Adjustment reviews the application pursuant to the provisions of Paragraphs 7109.11, 7109.12 and 7109.13.

14. The proposed extension of the restaurant use is a neighborhood facility since the site has been used as a restaurant and has served the neighborhood as such since 1932. It is anticipated that a large portion of the business will be of a walk-in variety, especially during the lunchtime hours.

15. The present and future character of the neighborhood will not be adversely affected since the subject site is in close proximity to Connecticut Avenue and Dupont Circle which contain a wide variety of uses including restaurants. Also, the subject site has been used as a restaurant since 1932.

16. The applicant's proposed renovation of a historic landmark conforms with Sections 451 and 452 of the adopted "District of Columbia Comprehensive Plan Goals and Policies Act of 1978" which state that "[i]t is the Goal of the District of Columbia to increase awareness of, and access to, facilities, places and activities essential to residents' and visitors' understanding of their culture and history. . ." and that it is the Policy of the City to promote the preservation and use of such historic sites.

17. The applicant will conduct the proposed extension of the restaurant use in accordance with the standards for external effects established for the C-M District.

18. The Board has considered the general character of uses and structures existing within 300 feet in all directions of the subject site. The site is located less

than two blocks from Dupont Circle, one of the City's major mixed use hubs. Five major streets intersect at this point including Massachusetts Avenue, Connecticut Avenue, and New Hampshire Avenue. Washington's prime office district begins on the south side of the circle. The subject property lies approximately fifty feet from Connecticut Avenue. Both Connecticut Avenue and Florida Avenue, which is three blocks north are commercial corridors consisting primarily of commercial properties. Located to the east of the subject property is New Hampshire Avenue, in an SP Zone District with a variety of usages. Located due east of the subject site is a wide spectrum of residential uses ranging from single family row dwellings to multi-unit dwellings including two to four family properties, mid-rise and high-rise apartment buildings. The Board notes that this location is close to the Dupont Circle Metro Station.

19. The Board has considered the arrangement, design and architectural features of the landmark and finds that the applicant proposes to renovate and redecorate the interior of the subject site in an attractive and compatible way in order to make it an enjoyable and safer structure. An elevator and a dumbwaiter are planned for construction. The applicant will also be providing a second means of egress and will install a sprinkler system in order to bring the building into compliance with the Building Code. The Board further finds that there will not be any renovation or alteration to the exterior of the site nor is there any other proposed structure.

20. The applicant intends to construct a single sign on the southwest corner of the lot in the front yard. The sign would be approximately five feet high and three feet wide and would be appropriately lighted so as not to disturb anyone. The sign would state "Four Ways," the restaurant's name. The Board requested the applicant to submit a preliminary sketch of the sign's design. After review of this sketch, the Board finds that the sign will be compatible to the site and the neighborhood.

21. The hours of operation inside the restaurant will be from 11:00 A.M. to 1:00 A.M., while the outdoor cafe will close at 10:00 P.M. There will be approximately fifty employees, twenty-five on each shift. Lunch and dinner will be served.

22. The applicant will provide eighteen parking spaces on the site behind the structure which is twice the amount required by Section 7202 and Paragraph 7207.17 of the Zoning Regulations. This number may be more than doubled when valet parking is provided on the site.

23. The applicant estimated that the restaurant will seat approximately 175 patrons on all floors at any one

time. Most of these people are expected to arrive by taxi and limousine. Some will arrive by foot or subway. The Board notes that the D.C. Department of Transportation's 1980 Traffic Volume Map indicates 6700 vehicles pass the site on R Street and 28,900 use Connecticut Avenue on an average weekday. The traffic generated by the applicant will not create any adverse effect on traffic circulation.

24. The applicant testified that loading facilities will be provided on the site behind the restaurant. Deliveries will be made so as not to disturb the patrons or the neighborhood, or block any traffic on the adjacent streets. One staff person is in charge of all deliveries.

25. The applicant submitted a site plan which indicates that it will provide additional attractive and compatible landscaping to the subject site which will also act as a buffer.

26. Since the subject site is an existing historic landmark with established architectural features including a wooden frame, and since the Fire Marshall has required the applicant to close off one of the two existing dumbwaiters due to its close proximity to a stairwell, the Board finds that the structure is affected by an extraordinary or exceptional situation or condition.

27. The proposed structural alterations to the premises for the construction of an elevator and a dumbwaiter will facilitate the arrival and removal of food in an orderly and efficient manner and will allow the applicant to maintain the building's structural integrity without altering its distinctive architectural design. The site will also be made safer since a second means of egress will be constructed and a sprinkler system will be installed.

28. The applicant's practical difficulties in this case stem from the fact that an existing dumbwaiter must be closed due to fire safety requirements. The single remaining dumbwaiter is too small. Since the kitchen is located in the cellar, the applicant must be able to transport food and dishes in a quick and efficient manner without disrupting the cleanliness and pleasant atmosphere to the patrons. Also, persons who choose not to use the stairs may use the elevator. Construction of an elevator would comply with the purpose and spirit of the Architectural Barrier Free Design Act by providing physically handicapped persons accessibility to a public facility.

29. The proposed structural alterations, because of their location in the interior of the structure and their usefulness to the restaurant and its patrons, will not

adversely affect the present character and future development of the neighborhood. The Board finds that the site has been used for fifty years as a restaurant and these improvements will insure such continued use.

30. The Office of Planning and Development by report dated May 21, 1982 recommended that the application be approved with the condition that valet parking be provided for the patrons of the restaurant to help prevent any potential traffic congestion on the streets in the area, and that the historic character of the building be preserved. It was the OPD's opinion that the proposed expansion of the restaurant use would provide a neighborhood facility and it would not have an adverse impact on the subject area. In view of the amendment of the applicant to provide interior structural changes, the OPD, at the request of the Board, filed a supplemental report dated May 28, 1982. The OPD reported that the request for variance in this case emerges from the need to make structural changes in the building to provide an alternate location for a dumbwaiter and also to provide an elevator for convenient and efficient use of the building. The Fire Marshall has required the applicant to close off one of the two existing dumbwaiters due to its close proximity to a stairwell. This creates a practical difficulty, in OPD's opinion, in the efficient use of the building. It should be noted that the required structural changes to accomplish the provision of a new dumbwaiter and an elevator would be restricted to the interior of the building and would not effect the exterior. The proposed changes are prompted by improved safety requirements and a necessary modernization of the facilities. The Office of Planning and Development recommended that the application for the requested variance in this application be approved. The Board concurs in the recommendations of the OPD in both of its reports.

31. The Dupont Circle Citizens Association, testified in qualified opposition to the application. It requested, among other items that the Board condition any approval that it might give on the submission of a sketch of the sign prior to a decision, that the outdoor cafe close at 10:00 P.M., that the office space be accessory only to the restaurant, that the applicant provide valet parking and that the applicant not create any objectionable external effects. The DCCA noted that there are large apartment buildings to the north and east of the site the windows of which overlook the site and that these apartments are most affected by the proposed use. The Board finds that the relief granted as conditioned below addresses the issues of the DCCA as well as the consent of the applicant at the public hearing to the reconstruction of the fence on the 20th and R Streets sides of the property.

32. Advisory Neighborhood Commission 2B testified at the public hearing that at the Dupont Circle ANC 2B meeting of May 12, 1982, the commissioners voted unanimously to recommend approval of the application with the contingency that valet parking be made available to guests. The ANC reported that several neighbors in attendance at the meeting who live in the immediate vicinity of the subject property voiced concern that the expansion of the restaurant to the building's second floor will bring greater numbers of guests to the restaurant and would also increase traffic problems at the already congested intersection of 20th and R Sts., N.W. Since the interior restaurant seating capacity is almost doubling in size, the ANC believed it appropriate to request that the Board's order in this case stipulate valet parking be available. The applicant, who was in attendance at the ANC meeting, had no objection to this request. The Board concurs in the ANC recommendation.

CONCLUSIONS OF LAW AND OPINION:

Based on the record the Board concludes that the applicant is seeking special exceptions and an area variance. Special exceptions can be granted if the applicant through substantial evidence has established that it has met the requirements of Sub-section 7105.2 and Section 7109 of the Zoning Regulations and that under Sub-section 8207.2 the relief can be granted as in harmony with the purpose and intent of the Zoning Regulations and will not affect adversely the use of neighboring property. The variance relief can be granted if the applicant establishes the existence of a practical difficulty that is inherent in the property itself and under Paragraph 8207.11 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.

The Board concludes that the proposed extension of the restaurant is a neighborhood facility since the site has been used as a restaurant and has served the neighborhood as such since 1932. Moreover, the use will not be objectionable. Due to the existing development and wide variety of uses in the area including restaurants, the Board further concludes that the present character and future development of the neighborhood will not be adversely affected. The application also complies with the "District of Columbia Comprehensive Plan Goals and Policies Act of 1978." The applicant must comply with the standards of external effects established in Sub-section 6101.6 of the Zoning Regulations. There will be no emission or escape of any objectionable smoke, gas, sound or objects. The Board concludes that the requirements of Sub-section 7109.113 have been met.

The Board concludes that the applicant will be bringing the site into Building Code compliance thereby making it a safer structure. Since the overall increase in seating capacity will be small and the applicant provides ample parking and loading facilities, the Board concludes that the restaurant will be compatible with the surrounding neighborhood. The Board therefore, concludes that the special exceptions can be granted as in harmony with the general purpose and intent of the Zoning Regulations and will not tend to affect adversely the use of the neighboring property. The applicant is in compliance with Sub-section 8207.2 of the Zoning Regulations.

With regard to the applicant's request for an area variance in order to make structural alterations, the Board concludes that the subject site is affected by an extraordinary or exceptional situation or condition since one of the site's existing dumbwaiters must be closed for fire safety reasons. This creates practical difficulties because the applicant must be able to facilitate the arrival and removal of food. Finally, the Board concludes that the requested variance can be granted without detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations since the structural alterations will be located in the interior of the premises, will make the building safer and will insure the historic landmark's continued use in an economically viable manner as a restaurant.

The Board concludes that it has accorded to the ANC the "great weight" to which it is entitled. It is therefore ORDERED that the application is GRANTED in its entirety SUBJECT to the following CONDITIONS:

1. Approval shall be limited to operation by Four Ways, Inc.
2. The areas devoted to outdoor dining and parking shall be as shown on the Landscape and Site Plan, Sheet SP-2 of Exhibit No. 20.
3. The curb cut located on 20th Street to the north of the driveway entrance shall be eliminated.
4. The sign submitted as Exhibit No. 26B of the record is approved subject to the further review and approval by the Joint Committee on Landmarks.
5. The applicant shall provide valet parking during all hours of operation of the restaurant.
6. The applicant shall comply with the standards of external effects established for the C-M District in Sub-section 6101.6 of the Zoning Regulations.

7. The outdoor cafe shall close no later than 10 P.M.
8. The offices located on the third floor shall be used solely for the restaurant's purposes.

VOTE: 3-0 (Walter B. Lewis, Connie Fortune and Charles R. Norris to grant, William F. McIntosh and Douglas J. Patton not present, not voting).

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

ATTESTED BY: 
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: AUG 27 1982

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS AND INSPECTIONS.