

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 14696, of the District of Columbia Department of Housing and Community Development, pursuant to 11 DCMR 3107.2, for a variance from the use provisions (Section 501) to establish a restaurant/carry-out seating 100 on the first floor in an SP-2 District at premises 500 - 3rd Street, N.W., (Square 531, Lot 32).

HEARING DATE: November 18, 1987  
HEARING DATE: November 18, 1987(Bench Decision)

FINDINGS OF FACT:

1. The property, known as premises 500 3rd, Street, N.W., is located in an SP-2 District on the west side of 3rd Street, between E and F Streets, N.W.

2. The site is rectangular in shape with a frontage of 49.50 feet along 3rd Street and a depth of 42.16 feet. The site is improved with a four story plus basement brick structure.

3. Across the street to the east of the site there is an HR/C-3-C District. Adjacent to the property to the south, there is a C-3-C District. A large portion of the northern end of the block is occupied by a commercial office building, Judiciary Center. The remainder of property on the block, except for one private residence, is owned and occupied by First Trinity Lutheran Church. This property consists of a church building, a parish house (occupied by Community Family Life Services, (CFLS) Inc.) and two apartment buildings which are being renovated. The private residence is located between the parish house and the subject property. To the south of the subject site, across E Street, within the C-3-C zone, is the site of a proposed office building -- One Judiciary Square. To the west across Fourth Street are the Military and Superior Courts. Directly across Third Street to the east, in the HR/C-3-C zone is a surface parking lot. The Tax Court occupies the southeast corner of Third and E Streets.

4. The property is owned by the District of Columbia. The District has authorized Trinity Landholding Corp. (TLC) to permit Community Family Life Services (CFLS), its sister agency, (as lessee) to file a variance application on the District's behalf. TLC has a long term lease on the property under the City's Land Acquisition for Housing Development

Opportunities Program ("LAHDO"). The LAHDO program provides assistance to organizations such as TLC for the acquisition of low-income housing. At any time, TLC has the option to purchase the property at cost.

5. Community Family Life Services is a well-established, non-profit organization with a long history of working with the poor and unemployed in the Washington area. The organization began in 1969 as an emergency support center for ex-offenders and their families. Individuals awaiting trial in the District of Columbia court were released in the custody of CFLS for supervision, support services, such as employment, substance abuse treatment, housing, mental aid treatment, paralegal assistance and emergency aid. Since 1969, CFLS has maintained this close relationship with the courts and has extended its services to the families and the homeless in the local community.

6. Since 1985, CFLS has operated an employee transportation assistance program to place and transport unemployed and homeless urban clients to jobs in the outlying suburbs. As of October 1987, 700 unemployed D.C. residents have been placed in full-time jobs. As part of the employment assistance program, CFLS is seeking a use variance to operate a restaurant in the basement level of the building at 500 Third Street, N.W. CFLS proposes to use the restaurant to train unemployed and/or homeless men and women for a six-month period and then place them in food services jobs. The restaurant will employ a manager, a professional cook/trainer and 15 to 20 trainees. Any profit realized from the restaurant project will be used to fund additional low-income housing projects and other such projects that help the poor become self-sufficient.

7. The basement of the structure was used for storage when the building was last occupied. The previous landlord had attempted to use the space as apartments but was prohibited because much of the space did not comply with the D.C. Housing Code.

8. CFLS proposes to renovate the basement in a manner which is consistent with the general renovation of the building. The restaurant will occupy 1,500 square feet of the total 1,890 square feet contained in the basement area. The front of the basement which fronts on Third Street will be reconfigured to provide restaurant seating for 50 to 75 people. The seating area will have windows on the Third and E Street sides of the building.

9. The rear of the basement space which borders on a small alley will be used for the kitchen. The windows at the rear of the kitchen will be permanently bricked up. The restaurant will be equipped with modern ventilation to the roof,

in order to minimize any adverse impact on the neighbors from fumes. On the exterior of the building, the renovation will include new windows and tuck painting on the bricks' facade. The doorway to the restaurant will be constructed on the corner of the building which faces Third and E Streets.

10. The restaurant will serve breakfast and lunch, and will be open to the public from 6:00 A.M. to 6:00 P.M. The menu will consist primarily of soups, sandwiches and salads in order to avoid grease and fried foods orders. The restaurant will be vented to the roof. With the exception of cafeterias located in the government office buildings, there are virtually no commercial restaurants within a two-block radius of the project site. Therefore, the natural clientele for the restaurant will be the 3,000 to 5,000 federal and District Government employees who work in the immediate area.

11. CFLS will operate, maintain and staff the restaurant. It will employ a manager, professional cook trainer and 15 to 20 trainees. The trainees will work in the restaurant for approximately six months until they are prepared to maintain permanent full-time jobs elsewhere. CFLS will place accomplished trainees in food service jobs in the metropolitan area.

12. The restaurant site will be maintained in a neat and orderly condition. Trash will be picked up twice a week. The trash dumpster will be located between the two apartment buildings. Food deliveries will be made twice a week, on Tuesday and Wednesday, between 8:00 A.M. and 11:30 A.M.

13. The cost of acquiring or leasing space in a commercial zone district which permits a restaurant will be cost prohibitive to operate CFLS' training program.

14. The upper stories of the structure will also be renovated.

15. No off-street parking is required for the restaurant since it is less than 3,000 square feet. Since most of the patrons will be coming from jobs that are expected to arrive by foot, there will be little or no vehicular traffic as a result of the restaurant.

16. By memorandum dated November 13, 1987, the Office of Planning (OP) recommended that the application be approved as it is of the opinion that the applicant has met the burden of proof as specified in Section 501 and Paragraph 3107.2, 11 DCMR.

17. By letter dated November 9, 1987, Advisory Neighborhood Commission (ANC) 2C recommended that the application be approved for a limited time of five years. The Board finds that a time limit cannot be placed on a use variance.

18. Numerous letters supporting the application were submitted to the record.

19. There was no opposition to the application at the public hearing or of record.

CONCLUSIONS OF LAW AND OPINION:

Based on the Findings of Fact and the evidence of record, the Board concludes that the applicant is seeking a use variance, the granting of which requires a showing through substantial evidence of a hardship upon the owner arising out of some exceptional condition in the property so that the property cannot reasonably be used for the purpose for which it is zoned. The Board must further find that the relief requested 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 Maps.

The Board concludes that the applicant has met the burden of proof. The basement is not suitable for residential purposes as it can not comply with the requirements of the D.C. Housing Code. Renovation of the space would provide for efficient utilization of the space. The establishment of the restaurant will not result in any obnoxious fumes or odors. It will serve only sandwiches, soups and salad to avoid grease and frying orders. The restaurant will be vented to the roof. CFLS expects to draw its patrons from the surrounding buildings and therefore, does not anticipate any vehicular traffic generation. Most of the immediate surrounding uses are government office buildings and other commercial users who will not be impacted by the restaurant.

The Board concludes that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations. The Board has accorded the ANC the "great weight" to which it is entitled.

Accordingly, it is ORDERED that the application is GRANTED.

VOTE: 5-0 (Patricia N. Mathews, Paula L. Jewell, Charles R. Norris, William F. McIntosh and Carrie L. Thornhill to grant).