

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14939 of Curtis Properties, Inc., as amended, pursuant to 11 DCMR 3107.2, for a variance from the provision [Paragraphs 2001.3(b) and (c)] to allow an addition to an existing nonconforming commercial structure, a variance from the maximum height and number of stories requirements (Sub-section 840.1) for the proposed construction of a 5th floor restaurant addition to an existing nonconforming structure in a C-M-1 and C-3-A District at premises 2041 Martin Luther King, Jr. Avenue, S.E., [Square 5772, Lots 879 and 883 (1018)].

HEARING DATE: February 15, 1989

DECISION DATE: February 15, 1989 (Bench Decision)

SUMMARY ORDER

The applicant at the public hearing amended the application to eliminate the variance to allow the required parking for a restaurant to be located on a lot other than the same lot with the building they are intended to serve under Sub-section 2116.1. The closing of a portion of the public alley in the square and lots 879 and 883 were combined to create a new lot of record as shown in Exhibit No. 25 of the record.

The Board duly provided timely notice of the public hearing on this application, by publication in the D.C. Register, and by mail to ANC 6C and to owners of property within 200 feet of the site.

The site of the application is located in Advisory Neighborhood Commission ("ANC") 6C. ANC 6C, which is automatically a party to the application, by letter dated January 23, 1989, submitted written issues and concerns in support of the application.

As directed by 11 DCMR 3324.2, the Board has required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for a variance from the strict application of the requirements of 11 DCMR 2001.3(b) and (c), and 840.1. No person or entity appeared at the public hearing in opposition to the application or otherwise requested to participate as a party in opposition to this proceeding. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, the Board concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3107.2, and that the requested relief 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. It is therefore ORDERED that the application is GRANTED.

Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.3 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is not prohibited by law.

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

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

ATTESTED BY:


EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: FEB 24 1989

UNDER 11 DCMR 3103.1, "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 CONSUMER AND REGULATORY AFFAIRS.

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