

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 15421 of Douglas Development Corporation, as amended, pursuant to 11 DCMR 3107.2, for a variance from the use provisions (Subsection 350.4) and a variance from the off-street parking requirements (Subsection 2101.1) to convert an existing building for office and retail use in the C-M-2 and R-5-B Districts at premises 2216-18 6th Street, N.W. (Square 3064, Lot 45).

HEARING DATES: January 23, 1991, March 27, 1991 and  
June 12, 1991

DECISION DATE: June 12, 1991 (Bench Decision)

DISPOSITION: The Board GRANTED the application, with CONDITIONS, by a vote of 3-0 (Charles R. Norris, Sheri M. Pruitt and Carrie L. Thornhill to grant; Paula L. Jewell not voting, having recused herself; Tersh Boasberg not present, not voting).

FINAL DATE OF ORDER: October 27, 1992

MODIFICATION ORDER

The Board granted the application by its Order dated October 27, 1992, subject to the following CONDITIONS:

1. The property shall be used for office, retail, and service uses generally permitted in the C-1 District except that the following specified uses shall be prohibited:
  - a) bar or cocktail lounge;
  - b) gasoline service station;
  - c) auto accessories sales;
  - d) electrical appliance store;
  - e) food or grocery store; and
  - f) restaurant.
2. The applicant shall provide six parking spaces on the adjacent Wonder Plaza parking lot and four parking spaces at the commercial lot fronting on Georgia Avenue for the exclusive use of employees and visitors to the subject premises.

By letter dated March 22, 1993, counsel for the applicant filed a timely motion for modification of Condition No. 1(f) of the Board's order. The bases for the requested modifications are generally summarized as follows:

- a) At the time of the public hearing on the application, the applicant proposed to lease some or all of the building to the D.C. Institute for Mental Health. However, subsequent to Board approval of the application, the proposed tenant opted to remain at its existing location and not to pursue occupancy of the subject property.
- b) The current proposed tenant, Armand's Pizzeria, would occupy approximately 1,230 square feet of the first floor area. The balance of the building would be occupied in accordance with the provisions of the Board's order.
- c) The impacts of the proposed use would be less with respect to number of employees and the need for employee parking spaces than the previously proposed tenant. The proposed hours of operation would remain unchanged.

By letter dated March 31, 1993, the representative of Howard University, a party in opposition to the application, opposed the motion for modification. The opposition was generally based on the following:

- a) Retail outlets at the subject site would disrupt the academic setting of the Howard University campus in terms of security as well as pedestrian and vehicular traffic.
- b) The proposed use should be classified as a "fast food restaurant" which is not permitted as a matter-of-right in the C-1 District.
- c) The proposed modification does not qualify under the provisions of 11 DCMR 3335.7 which limits such consideration to "minor modifications that do not change the material facts the Board relied upon in approving the application."

Based on the motion, response thereto, the evidence of record and its final order, the Board concludes that the proposed modification of Condition No. 1 of the Board's order dated October 27, 1992 represents a direct deviation from the specifically prohibited uses which were imposed as a result of the information presented to the Board in the case. The Board notes that the applicant has not alleged any error on the part of the Board with respect to the imposition of the conditions enumerated in the Board's order. Therefore, the Board concludes that the current conditions properly reflect the Board's decision based on the evidence before it in deciding the application. Accordingly, the Board concludes that the Motion for Modification of Condition No. 1 of its order dated October 27, 1992 cannot be granted based on

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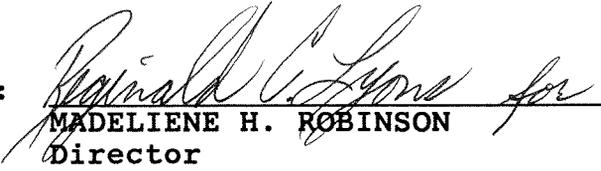
the information currently before the Board and hereby **ORDERS** that the request is hereby **DENIED**. The Board notes that the applicant has the option of complying with the order as currently conditioned or filing a new application seeking the zoning relief necessary to permit the applicant's current proposal.

**DECISION DATE:** May 5, 1993

**VOTE:** 3-0 (Sheri M. Pruitt, Carrie L. Thornhill and Tersh Boasberg to deny; Paula L. Jewell and Angel F. Clarens not voting, not having recused themselves).

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

**ATTESTED BY:**

  
**MADELIENE H. ROBINSON**  
Director

**FINAL DATE OF ORDER:** \_\_\_\_\_

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."

15421Order/SS/bhs

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 15421

As Acting Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on \_\_\_\_\_ a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

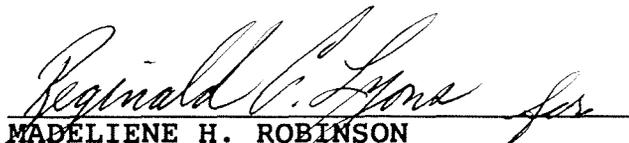
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\_\_\_\_\_  
MADELIENE H. ROBINSON  
Director

DATE: \_\_\_\_\_

15421Att/bhs