

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15577 of the Ninth Street Restaurant, Inc., as amended, pursuant to 11 DCMR 3108.1, for a special exception under Sections 732, 360 and 358.8 to establish an emergency shelter for 30 women on part of the second floor in a DD/C-2-C District at premises 928 5th Street, N.W., (Square 484, Lot 24).

HEARING DATE: November 20, 1991
DECISION DATE: November 20, 1991 (Bench Decision)

SUMMARY ORDER

At the public hearing, the Board amended the application to eliminate the variance from Paragraph 732.1(c) to allow an emergency shelter for more than 25 persons. The Board found the variance to be incorrect since the requested relief to allow an emergency shelter for more than 25 persons is provided for as a special exception under Sub-section 358.8.

The Board duly provided timely notice of public hearing on this application, by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 2C and to owners of property within 200 feet of the site.

The site of the application is located within the jurisdiction of ANC 2C. ANC 2C, which is automatically a party to the application, by letter dated November 19, 1991, supported the granting 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 special exception pursuant to 11 DCMR 732, 360 and 358.8. No person or entity appeared at the public hearing in opposition to the application or otherwise requested to participate as a party in 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 3108, 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 Map. It is therefore ORDERED that the application is GRANTED, SUBJECT to the following CONDITIONS:

1. Residents shall not be allowed to congregate or loiter on

or near the subject premises at any time.

- 2. The applicant shall install appropriate exterior lighting at the entrance to the facility.

Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.1 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: 4-0 (John G. Parsons, Paula L. Jewell, Sheri M. Pruitt and Carrie L. Thornhill to grant; Charles R. Norris not present, not voting).

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

ATTESTED BY: 
MADELIENE H. ROBINSON
Acting Director

FINAL DATE OF ORDER: MAY 27 1991

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS 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 SUPPLEMENMTAL 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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BZA APPLICATION NO. 15577

As Acting Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on NOV 27 1991 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:

Jacques DePuy
Stohlman, Beucher, Egan & Smith
1775 Pennsylvania Avenue, N.W.
Suite 400
Washington, D.C. 20036

Calvery Womens Shelter
755 - 8th Street, N.W.
Washington, D.C. 20001

Clifford W. Waddy, Chairperson
Advisory Neighborhood Commission 2-C
1200 S Street, N.W., #201
Washington, D.C. 20009

Nineth Street Restaurant, Inc.
476 K Street, N.W.
Washington, D.C. 20001

A handwritten signature in black ink, appearing to read "Madeliene H. Robinson", written over a horizontal line.

MADELIENE H. ROBINSON
Acting Director

DATE: NOV 27

15577Att/bhs