

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 16004 of Agostino S. Buttinelli, pursuant to 11 DCMR 3107.2, for a variance from the off-street parking requirements (Subsection 2101.1) to allow a public hall in conjunction with a restaurant in a DCOD/C-3-B District at premises 1629 Connecticut Avenue, N.W. (Square 111, Lot 83).

HEARING DATE: November 16, 1994
DECISION DATE: November 16, 1994 (Bench Decision)

ORDER

SUMMARY OF EVIDENCE:

1. The subject property is located on the east side of Connecticut Avenue, N.W. between Q and R Streets. It is approximately one and a half blocks northwest of Dupont Circle and is known as 1629 Connecticut Avenue, N.W. The site is zoned DCOD/C-3-B and is located within the Dupont Circle Historic District.

2. The subject property contains a two-story plus basement building constructed pursuant to BZA Order No. 14609, which granted a parking variance. The building (basement, first and second levels) is currently operated as a restaurant under Certificate of Occupancy No. B169211.

3. The subject property has a land area of approximately 3,827 square feet, with 40.5 feet of frontage on Connecticut Avenue, N.W., a depth of 92.71 feet along the north property line, and a depth of 95.67 feet along the south property line. The building abuts other buildings to the north and south. To the rear (east) of the subject site, the property abuts an existing 15-foot alley, which intersects with a ten-foot wide alley. The site is located on a limited one-way northbound service roadway along Connecticut Avenue.

4. The subject property is located in the Dupont Circle area and is within the boundaries of the Dupont Circle Historic District. The properties along the 1600 block of Connecticut Avenue are all zoned DCOD/C-3-B and generally are four stories in height with offices above ground-floor retail. There is a wide variety of retail shops and restaurants in the area. To the rear of the property (across the alley) are rowhouse dwellings, apartments and condominiums which front on 19th Street, N.W.

5. In Order No. 14609, the Board granted an area variance from the off-street parking requirements of 11 DCMR Subsection 2101.1 to permit the construction of the existing building on the

subject property. The Board specifically found that the site's restricted alley access, the location within the Dupont Circle Historic District and the narrow width of the property combined to create an extraordinary condition inherent in the property constituting a practical difficulty. All of these factors still exist. Additionally, in 1990, the Zoning Commission adopted the Dupont Circle Overlay District which prohibits curb cuts along Connecticut Avenue, N.W., between N Street and Florida Avenue, N.W. This further exacerbates the inherent inability to provide access to on-site parking. No parking spaces were required as part of the approval in Order No. 14609. The building was therefore constructed without any parking and no space is available for such.

6. Previously, in Order No. 14060, the Board conditionally granted a variance from the parking requirements on this site to allow the construction of a four-story office and retail building.

7. By letter dated October 22, 1993, the Zoning Administrator determined that if the facility on the subject property were utilized for entertainment purposes in addition to a restaurant, BZA approval with regard to parking would be required.

8. The applicant proposes to use the basement of the building as a public hall offering entertainment. The basement will provide approximately 1,603 square feet usable for seating. Based on the square footage available for seating, 23 parking spaces are required for the public hall use. As the Board has previously found, the subject site cannot accommodate any parking spaces, and no parking is provided. Therefore, a 100 percent parking variance is required.

9. The public hall will operate in conjunction with the restaurant and will be open to the public seven nights each week, with a capacity of 140 persons.

10. Based upon the applicant's meeting with the Office of Planning, the applicant offered as a condition to provide validated parking within one-quarter mile of the property to customers of the public hall. As indicated by the traffic expert, there are eight garages in the one-quarter mile radius of the subject property.

11. The applicant's architect addressed the access to the basement of the building and the unusual situation and practical difficulty and undue hardship in meeting the parking requirement.

12. The applicant's architect also stated that the building was constructed with soundproofing to minimize any noise impacts from the facility onto neighboring properties.

13. Based on the analysis of the traffic engineer, there is ample transportation serving the subject site to accommodate the proposed use. A substantial percentage of patrons of the facility either will walk or use the metrorail service which is available within one-half block of the site at Connecticut Avenue and Q Street. The site is also served by Metrobuses L1, L3, L4, L7, L8, L9, H6, 40, 42, 44 and 46. The public hall would begin to fill up around 10:00 p.m., well past the peak demand for restaurants in the area. After 10:00 p.m., there are many metered spaces available on Connecticut Avenue. In addition, the applicant has agreed to offer validated parking to customers of the public hall at a garage within one-quarter mile of the subject property.

14. The subject property is presently utilized as a restaurant, with a capacity of 125 people. The use will continue, in conjunction with the public hall use in the basement.

15. The District of Columbia Office of Planning (OP), by report dated November 8, 1994, and by testimony presented at the public hearing, recommended that the application be approved, with the condition related to validated parking.

16. The District of Columbia Metropolitan Police Department, (MPD) by report dated October 25, 1994, stated that it did not oppose the application. It stated that it did not appear that the application will affect the public safety in the immediate area or generate an increase in the level of police services now being provided.

17. Four letters of support for the application were submitted by adjacent businesses.

18. The applicant submitted a petition in support of the application containing 192 signatures.

19. Gregory J. Mounts, owner of an apartment building at 1626 19th Street, N.W., appeared in opposition to the application. The primary concern was increased parking demand in the residential area with the establishment of the public hall.

20. One neighborhood resident filed a letter in opposition, with a petition containing 82 signatures in opposition. The letter noted that the nearby community supported the ongoing restaurant use.

21. A report of Advisory Neighborhood Commission 2B was not accepted into the record as it was filed untimely and did not request a waiver of the Board's Rules to be accepted.

FINDINGS OF FACT:

In consideration of the evidence of record, the Board finds the following:

1. The Advisory Neighborhood Commission did not file a timely report on the application.

2. The Board concurs with the applicant and the Office of Planning.

3. The Board finds that conditioning the application related to a free or validated parking system adequately addresses the concerns related to parking within the adjacent residential neighborhood.

4. Consistent with BZA Order No. 14993, there is no significant difference between serving food to 125 people and providing entertainment for 140 people.

5. The subject site is located in an area exceptionally well served by public transportation.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and the evidence of record, the Board concludes that the applicant is seeking a variance from the off-street parking requirements for a public hall.

The granting of a variance requires evidence of a practical difficulty upon the owner arising out of some extraordinary or exceptional condition of the property such as exceptional narrowness, shallowness, shape or topographical condition. The Board further must find that the requested relief can be granted without substantial detriment to the public good and that it will not substantially impair the intent, purpose and integrity of the zone plan.

The Board concludes that the applicant has met the burden of proof established for the requested variance.

The Board concludes that because the existing structure occupies virtually the entire lot, there is inadequate space for parking. The condition creates a practical difficulty for the owners in complying with the requirements of the Zoning Regulations.

It is the opinion of the Board that to grant the requested relief will not be of substantial detriment to the public good. The Board further concludes that granting the variance will not

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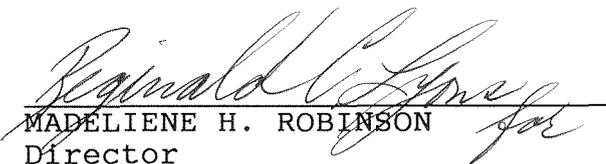
substantially impair the intent, purpose and integrity of the zone plan.

It is therefore ORDERED that the application is GRANTED, SUBJECT to the CONDITION that the applicant shall make arrangements with a public parking garage, located not more than one quarter of a mile from the site, to provide 23 parking spaces for the patrons of the applicant's facility. The parking is to be handled with validated parking or another type of free parking system.

VOTE: 5-0 (Craig Ellis, Susan Morgan Hinton, Laura M. Richards, William L. Ensign and Angel F. Clarens to grant).

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

ATTESTED BY:


MADELIENE H. ROBINSON
Director

FINAL DATE OF ORDER: FEB 16 1995

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 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, 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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GOVERNMENT OF THE DISTRICT OF COLUMBIA
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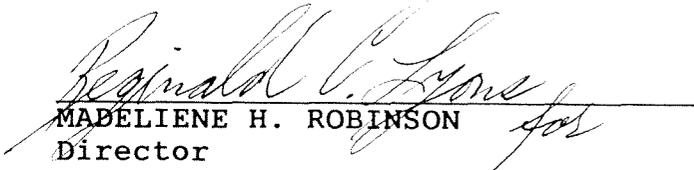
As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on FEB 16 1995 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

John T. Epting, Esquire
Wilkes, Artis, Hedrick & Lane
1666 K Street, N.W. Suite 1100
Washington, D.C. 20006

Gregory J. Mounts
1626 19th Street, N.W.
Washington, D.C. 20009

Agustino Buttinelli
1801 Connecticut Avenue, N.W.
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Dennis Bass, Chairperson
Advisory Neighborhood Commission 2B
1347 Connecticut Avenue, N.W., Suite 2
Washington, D.C. 20036


MADÉLIENE H. ROBINSON
Director

DATE: FEB 16 1995