

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 16188 of Wire Enterprise, pursuant to 11 DCMR 3107.2, for a variance from the use provisions (Subsection 350.4) to allow a variety grocery store and delicatessen on part of the basement of an apartment building in an R-5-B District at premises 2007 Maryland Avenue, N.E. (Square 4477, Lot 36)

HEARING DATE: January 8, 1997
DECISION DATE: January 8, 1997 (Bench Decision)

SUMMARY ORDER

The Board provided proper and timely notice of public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 5B and to owners of property within 200 feet of the site.

The site of the application is located within the jurisdiction of ANC 5B. ANC 5B, which is automatically a party to the application, did not submit a written statement related to 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 350.4. 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 3107, that there exists an exceptional or extraordinary situation or condition related to the property which creates an undue hardship for the owner in complying with the Zoning Regulations, 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.

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 appropriate in this case.

VOTE: 3-0 (Angel F. Clarens, Susan M. Hinton and Laura M. Richards to grant; Sheila Cross Reid not present, not voting).

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

ATTESTED BY:



MADELIENE H. DOBBINS
Director

FINAL DATE OF ORDER:

JAN 24 1997

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.

16188.ord/RHB/bjw

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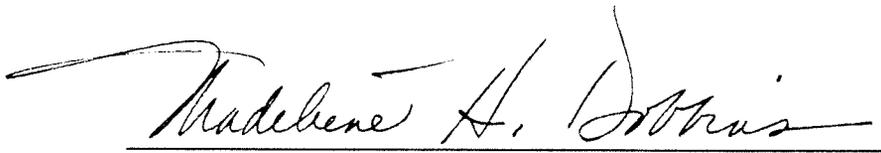
APPLICATION NO. 16188

As Director of the Board of Zoning Adjustment, I certify and attest that on JAN 24 1997 a copy of the order entered on that date in this matter was mailed postage prepaid to each person who appeared and participated as a party in the public hearing concerning this matter, and who is listed below:

James W. Duren
6903 Coolridge Road
Camp Springs, Maryland 20748

James Booze
1724 Lang Place, N.E.
Washington, D.C. 20002

James A. Boyd, Chairperson
Advisory Neighborhood Commission 5B
1335-57 New York Ave., N.E.
Washington, D.C. 20002


MADELIENE H. DOBBINS
Director

DATE: JAN 24 1997