

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 16284 of Tameru and Martha Zemenfes, pursuant to 11 DCMR 3108.1 for a special exception under Subsection 2003.1 to change a nonconforming use from thrift store to carryout and delicatessen on the first floor, or in the alternative, pursuant to 11 DCMR 3107.2, for a variance from the use provisions of Subsection 330.5 to establish a carryout and delicatessen in an R-4 District at premises 1915 9th Street, NW (Lot 806, Square 393).

Hearing Date: December 3, 1997

Decision Date: December 3, 1997 (Bench Decision)

SUMMARY ORDER

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 1B and to owners of property within 200 feet of the site. The notice advertised relief for both the special exception and variance.

The Board determined that the appropriate relief in this case is a use variance under subsection 330.5.

The site of the application is located within the jurisdiction of ANC 1B. ANC 1B, which is automatically a party to this application, did not file a written statement.

As directed by 11 DCMR 3324.2, the Board 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 330.5. No person or entity appeared at the public hearing in opposition to this 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

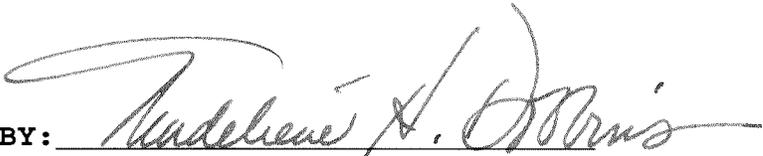
undue hardship for the owner in complying with the Zoning Regulations, and that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. The Board concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. It is therefore **ORDERED** that the application be **GRANTED, SUBJECT** to the following **CONDITIONS:**

1. Approval shall be only for the first floor of the premises.
2. The regular hours of operation shall be 8:00 a.m. to midnight, Monday through Saturday, and 9:00 a.m. to 11:00 p.m. on Sundays.
3. Trash shall be picked up twice weekly.

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 appropriate in this case.

VOTE: 3-0 Sheila Cross Reid, Betty King, and Susan Morgan Hinton to grant; Laura M. Richards not voting, not having heard the case)

BY ORDER OF THE BOARD OF ZONING ADJUSTMENT

ATTESTED BY: 

MADELIENE H. DOBBINS
Director

FINAL DATE OF ORDER: _____

DEC 17 1997

BZA APPLICATION NO. 16284
PAGE 3

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 310.1, "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 TWO YEARS, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

16284/bab

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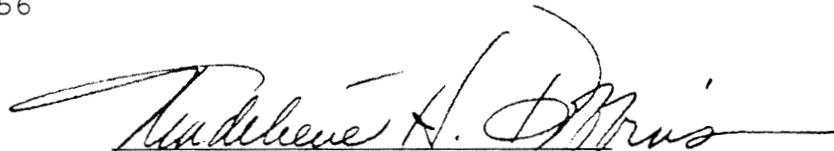


BZA APPLICATION NO. 16284

As Director of the Board of Zoning Adjustment, I certify and attest that on DEC 17 1997 a copy of the order entered on that date in this matter was mailed first class postage prepaid to each party who appeared and participated in the public hearing concerning the matter, and who is listed below:

Tameru Zemenfes
4420 S. 31st Street, #104
Arlington, Virginia 22206

Lawrence T. Guyot, Chairperson
Advisory Neighborhood Commission 1B
P.O. Box 73710
Washington, DC 20056


MADELIENE H. DOBBINS
Director

DATE: DEC 17 1997