

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Board of Zoning Adjustment**



**Application No. 18066 of Casey Dalton**, pursuant to 11 DCMR § 3104.1, for a special exception to allow a change of use from a nonconforming grocery store to a prepared food shop under subsection 2003.1, in the R-4 District at premises 1201 S Street, N.W. (Square 275, Lot 35).<sup>1</sup>

**HEARING DATES:** June 8, 2010, July 20, 2010, and September 21, 2010  
**DECISION DATES:** October 19, 2010 and October 26, 2010

**SUMMARY ORDER**

**SELF CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 5).

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 site of this application is located within the jurisdiction of ANC 1B, which is automatically a party to this application. ANC 1B filed a timely report, dated July 7, 2010, in support of the Applicant’s project.<sup>2</sup> The ANC’s report indicated that at a duly-noticed and scheduled public meeting on July 7, 2010 with a quorum present, the ANC voted 7:0 to support the application. (Exhibits 28 and 35). Additionally, the Single Member District Commissioner submitted a letter of support for the record. (Exhibit 34). The Office of Planning (“OP”) submitted a timely report in which it did not make a recommendation, pending additional information from the Applicant. (Exhibit 24).

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<sup>1</sup> The application caption was amended to strike the word “retail” before the phrase “grocery store” and the word “delicatessen” before the phrase “prepared food shop”. The name of the Applicant also was changed from Charles Emor to Casey Dalton, as Mr. Dalton is the owner of the property. (Exhibit 37).

<sup>2</sup> The ANC’s report was first received by the Office of Zoning on July 9, 2010 (Exhibit 28) and again provided at the public hearing on September 21, 2010. (Exhibit 35).

**BZA APPLICATION NO. 18066**  
**PAGE NO. 2**

Letters of support were filed for the record from neighbors Troy Hughes and Toni Harmer, 1809 12<sup>th</sup> Street, N.W.; Lisa and Liza Leavitt, 1207 S Street, N.W.; J.M. Greene, 1211 S Street, N.W.; Kelly Goggins and Jenny Larsen, 1800 12<sup>th</sup> Street, N.W.; and David R. Jolliffe, 1203 S Street, N.W. (Exhibit 31).

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception under § 2003.1. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the ANC and OP reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 2003.1, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further 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.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application be **GRANTED** (pursuant to Exhibits 10 and 31 – Plans and Elevations and Site Plans).

**VOTE:** 3-0-2 (Meridith H. Moldenhauer, Jeffrey L. Hinkle, Konrad W. Schlater (by absentee vote), to APPROVE. Nicole C. Sorg and the third Mayoral appointee (vacant) neither participating, nor voting.)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**  
The majority of the Board members approved the issuance of this order.

ATTESTED BY:   
JAMISON L. WEINBAUM  
Director, Office of Zoning

FINAL DATE OF ORDER: NOV 02 2010

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-

**BZA APPLICATION NO. 18066**  
**PAGE NO. 3**

YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE §§ 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

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**BZA APPLICATION NO. 18066**

As Director of the Office of Zoning, I hereby certify and attest that on NOV 02 2010, a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

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Bello, Bello & Associates, LLC  
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Washington, D.C. 20002

Chairperson  
Advisory Neighborhood Commission 1B  
2000 14<sup>th</sup> Street, N.W., Suite 100B  
Washington, D.C. 20009

Single Member District Commissioner 1B02  
Advisory Neighborhood Commission 1B  
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Washington, DC 20009

Jim Graham, Councilmember  
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**BZA APPLICATION NO. 18066**  
**PAGE NO. 2**

**ATTESTED BY:**



**JAMISON L. WEINBAUM**  
**Director, Office of Zoning**