

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19070 of David and Sheila Hoxie, as amended,¹ pursuant to 11 DCMR § 3104.1, for a variance from the use requirements under § 330.5, to establish an inn with five (5) rooms and accessory central area for transient food consumption that includes alcohol in the R-4 District at premises 1207 Kenyon Street, N.W. (Square 2844, Lot 49).

HEARING DATES: September 29 and November 17, 2015
DECISION DATE: November 17, 2015

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

On June 22, 2015, the Applicant filed a request for relief, accompanied by a memorandum, dated March 2, 2015, from the Zoning Administrator (“ZA”), which stated that Board of Zoning Adjustment (“Board” or “BZA”) approval is required for a special exception pursuant to 11 DCMR §§ 3104.1 and 330.6 to use the subject premises as a rooming house in the R-4 District. (Exhibit 9.) After the public hearing on September 29, 2015, the Applicant submitted a revised memorandum from the ZA indicating that a variance from the use requirements of § 330.5 is required to establish an inn. (Exhibit 34.)

After consultation with Office of Planning (“OP”), the ZA determined that the appropriate relief for this application would be a use variance, pursuant to 11 DCMR §§ 3103.2 and 330.5, to establish an inn in the R-4 District. The Applicant submitted a revised memorandum from the ZA to the record, (Exhibit 34,) and subsequently amended its request for relief to a use variance from § 330.5. At the Board’s request, the Applicant posted revised signage on the property to give notice of its amended request for relief. (Exhibit 36.)

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 the Applicant, Advisory Neighborhood

¹ The Applicant’s original request was accompanied by a memorandum from the Zoning Administrator (“ZA”), stating that a special exception pursuant to § 3104.1 and 330.6 is required. (Exhibit 9.) After the public hearing on September 29, 2015, the Applicant submitted a revised memorandum from the ZA indicating that a variance from the use requirements of § 330.5 is required to establish an inn. (Exhibit 34.) At the public hearing on November 17, 2015, the Applicant also corrected for the record that the proposed inn would have five rooms, and that the original request for four rooms was in error. The caption has been revised accordingly.

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Commission (“ANC”) 1A, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1A, which is automatically a party to this application.

ANC 1A submitted a report indicating that at its regularly scheduled and properly noticed public meeting of September 9, 2015, at which a quorum was in attendance, it considered the Applicant’s amended request for use variance relief to establish an inn. At its meeting, the ANC voted 12-0-0 in support of application. (Exhibit 32.)

OP submitted a timely report recommending denial of the requested variance. (Exhibit 31.) At the Board’s public hearing on September 29, 2015, the Board continued the hearing to allow the Applicant additional time to work with OP. The Applicant submitted additional information to the record to support its request, (Exhibits 35 and 35A,) and based on this information, OP testified in support of the application at the November 17, 2015 public hearing. At the Board’s request, OP worked with the Applicant to propose three conditions that would restrict the Applicant’s service of alcohol within the inn. The Board adopted these conditions as part of this Order.

The District Department of Transportation (“DDOT”) filed a report expressing no objection to the approval of the application. (Exhibit 28.)

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for variances under § 3103.2, from the strict application of the use requirements under § 330.5, to allow an inn with five (5) rooms and accessory central area for transient food consumption that includes alcohol in the R-4 District. The only parties to the case were the ANC and the Applicant. 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 §§ 3103.2 and 330.5, that there exists an exceptional or extraordinary situation or condition related to the property that 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.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.5, 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.

It is therefore **ORDERED** that this application is hereby **GRANTED, SUBJECT TO THE FOLLOWING CONDITIONS:**

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1. Alcoholic beverages shall only be ordered at the time of reservation.
2. Alcoholic beverages ordered at the time of reservation shall be limited to a maximum of two bottles of champagne, two bottles of wines, and a six-pack of beer per room, per day. Beverages shall be delivered daily if required.
3. Alcoholic beverages shall be consumed only on-site.

VOTE: 3-0-2 (Marnique Y. Heath, Frederick L. Hill, and Michael G. Turnbull to APPROVE; Jeffrey L. Hinkle not participating, and one Board seat vacant.)

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

A majority of the Board members approved the issuance of this order.

ATTESTED BY: _____


SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: November 19, 2015

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 SIX MONTHS AFTER IT BECOMES EFFECTIVE UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD.

PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

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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.