

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19140 of Southwest Social Scene, Inc., as amended¹, pursuant to 11 DCMR § 3103.2, for a variance from the off-street parking requirements under § 2101.1, to permit a private club in the C-M-2 District at premises 412 V Street N.E. (Square 3621, Lot 44).

HEARING DATES: December 15, 2015, February 2, 2016, February 23, 2016, and April 12, 2016²
DECISION DATE: April 12, 2016

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum, dated July 24, 2015, and a revised memorandum, dated November 18, 2015, from the Zoning Administrator, certifying the required relief. (Exhibits 5 (original) and 24 (revised).)

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") 5A and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 5A, which is automatically a party to this application. The ANC did not submit a report to the record. At the hearing on April 12, 2016, the Applicant testified that the ANC had voted to defer to the recommendations of the Eckington Civic Association. The Eckington Civic Association voted 11-2 to support the application, based on a voluntary agreement entered into with the Applicant, and included in the record at Exhibit 36.

¹ The Applicant amended its application by asking the Board to disregard its earlier request for parking on public space. The Applicant clarified that it was only seeking variance relief from providing parking on site. (Exhibits 32 and 31.) The caption has been changed accordingly.

² The Board continued the public hearing of December 15, 2015, to allow the Applicant to work with the Office of Planning and DDOT to provide additional information to meet the burden for variance relief. The case was also postponed from the public hearings of February 2 and 23, 2016 at the Applicant's request so it could provide supplemental information. (Exhibit 29.) The Board heard the merits of the case at the April 12, 2016 public hearing.

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The Office of Planning (“OP”) submitted two reports in this case. In the first report, dated December 8, 2015, OP indicated it could not support the requested variance due to a lack of information in the application. OP stated that the application was incomplete, with missing information and a lack of analysis. (Exhibit 25.) In the second report, dated April 5, 2016, and in its testimony at the public hearing on April 12, 2016, OP recommended approval of the application for variance relief under § 2101.1. (Exhibit 34.) OP cited for its change of position the fact that the Applicant had supplemented the record with sufficient additional information so that OP could evaluate the application.

The District Department of Transportation (“DDOT”) submitted two reports as well. The first DDOT report, dated December 8, 2015, indicated that DDOT could not support approval of the application due to a lack of information. (Exhibit 26.) In the second, supplemental DDOT report, dated April 5, 2016, DDOT indicated that it had no objection to the grant of the application for variance relief. (Exhibit 35.) DDOT requested that the Applicant continue to coordinate with DDOT on public space issues.

In addition to the aforementioned letter of support from the Eckington Civic Association (Exhibit 36), a letter of support for the application was submitted to the record by Councilmember Grosso. (Exhibit 22.)

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 pursuant to § 3103.2, for a variance from the off-street parking requirements under § 2101.1, to permit a private club in the C-M-2 District. The only parties to the case were the ANC and the Applicant. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be averse to any party.

Based upon the record before the Board, and having given great weight to the OP reports filed in this case, the Board concludes that in seeking a variance from 11 DCMR § 2101.1, the Applicant has met the burden of proof under 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the 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.

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It is therefore **ORDERED** that the application is hereby **GRANTED, AND PURSUANT TO § 3125.8, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 11 BUT FOR THE PARKING IN PUBLIC SPACE.**³

VOTE: **5-0-0** (Frederick L. Hill, Michael G. Turnbull, Marnique Y. Heath, Anita Butani D'Souza, and Jeffrey L. Hinkle, to APPROVE.)

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: April 18, 2016

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-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO § 3129.9, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL TOLL OR EXTEND THE TIME PERIOD.

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. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

³ While the Board approved the application, it did not approve parking in public space, which was specifically rejected by DDOT.

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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.