

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19158 of Talal (P2) Ventures LLC, pursuant to 11 DCMR §§ 3103.2 and 3104.1, for a variance from the distance from a residence district requirement under § 734.2, and a special exception from the food delivery service use requirements under § 734, to establish a food delivery service use in the C-2-A District at premises 1815 Wisconsin Avenue N.W. (Square 1299, Lot 327).

HEARING DATE: January 12, 2016
DECISION DATE: January 12, 2016

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 4.)

The Board of Zoning Adjustment (“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”) 2E, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2E, which is automatically a party to this application.

ANC 2E filed a report dated December 2, 2015, indicating that at a regularly scheduled, duly noticed public meeting on November 30 2015, with a quorum of Commissioners present, the ANC considered the application. The ANC voted 6-0 to recommend approval of the application with seven conditions. (Exhibit 26.) The Applicant accepted the conditions proffered by the ANC (Exhibit 27), and the Board adopted them as a part of this order.

The Office of Planning ("OP") submitted a timely report on January 5, 2016, recommending approval of the application (Exhibit 30), and testified in support at the public hearing. The District Department of Transportation ("DDOT") submitted a timely report on January 5, 2016 indicating that it had no objection to the Applicant's request for variance and special exception relief. (Exhibit 29.)

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Variance Relief

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 § 3103.2, for a variance from the distance from a residence district requirement under § 734.2. 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 OP and ANC reports filed in this case, the Board concludes that in seeking a variance from 11 DCMR § 734.2, the Applicant has met the burden of proving under § 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.

Special Exception Relief

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 from the food delivery service use requirements under § 734. 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 OP and ANC reports filed in this case, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 734, 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 § 3125.5, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application is hereby **GRANTED, SUBJECT TO THE FOLLOWING CONDITIONS:**

1. The hours of operation shall not exceed 10:00 am – 2:00 am seven days a week, but carry-out service shall not be permitted after 11:00 pm.
2. Individual slices of pizza shall only be sold from the premises between the hours of 10:00 am – 2:00 pm.
3. No more than six seats shall be provided in the fast food delivery service restaurant.

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4. The delivery service area shall be limited to properties that are located within a two-mile radius of the fast food delivery service restaurant.
5. The Applicant, or any subsequent owner or operator of the property, shall use personal vehicles, mopeds (electric and gas-powered), and bicycles for deliveries.
6. The Applicant, or any subsequent owner or operator of the property, shall utilize vent hoods that exhaust through the roof, using best available technology, to mitigate any cooking odors.
7. The Applicant, or any subsequent owner or operator of the property, shall closely monitor refuse and recycling collection in order to mitigate any potential negative impacts on neighboring properties and the general public.

VOTE: 4-0-1 (Marnique Y. Heath, Frederick L. Hill, Jeffrey L Hinkle, and Peter G. May to APPROVE; 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: January 14, 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 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 THEREOF, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE

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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.

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.