

OCTOBER 16, 2020

APPLICANT: UrbanX Learning dba GCE Lab School Cal. No. 321-20-S

APPEARANCE FOR: Same as Applicant **MINUTES OF MEETING:**

October 16, 2020

APPEARANCE AGAINST: None

PREMISES AFFECTED: 9 W. Washington Street, 4th Floor

NATURE OF REQUEST: Application for a special use to construct a tenant build out of the fourth floor for a high school in an existing four-story building with a change of use from office/ business. The fourth floor and lobby entrance at the first floor will be built out.

**ACTION OF BOARD-
APPLICATION APPROVED**

THE VOTE

NOV 23 2020
CITY OF CHICAGO
ZONING BOARD OF APPEALS

TIMOTHY R. KNUDSEN
ZURICH ESPOSITO
BRIAN H. SANCHEZ
SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
X		
X		

THE RESOLUTION:

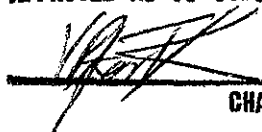
WHEREAS, a public hearing was held on this application by the Zoning Board of Appeals at its regular meeting held October 16, 2020 after due notice thereof as provided under Section 17-13-0107B and by publication in the Chicago Sun-Times on October 1, 2020; and

WHEREAS, the Zoning Board of Appeals, having reviewed the proposed finding of fact and having fully heard the testimony and arguments of the parties and being fully advised in the premises, hereby finds the following; the applicant shall be permitted to construct a tenant build out of the fourth floor for a high school in an existing four-story building with a change of use from office/ business. The fourth floor and lobby entrance at the first floor will be built out; expert testimony was offered that the use would not have a negative impact on the surrounding community and is in character with the neighborhood; further expert testimony was offered that the use complies with all of the criteria as set forth by the code for the granting of a special use at the subject site; the Board finds the use complies with all applicable standards of this Zoning Ordinance; is in the interest of the public convenience and will not have a significant adverse impact on the general welfare of neighborhood or community; is compatible with the character of the surrounding area in terms of site planning and building scale and project design; is compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise, and traffic generation; and is designed to promote pedestrian safety and comfort; it is therefore

RESOLVED, that the aforesaid special use request be and it hereby is approved and the Zoning Administrator is authorized to permit said special use subject to the following condition(s): provided the special use is issued solely to the applicant, UrbanX Learning dba GCE Lab School, and the development is consistent with the design and layout of the plans and drawings dated June 5, 2020, prepared by Farr Associates.

That all applicable ordinances of the City of Chicago shall be complied with before a permit is issued.

APPROVED AS TO SUBSTANCE


CHAIRMAN

USPS: 11/23/20

APPLICANT: Jiarong Zhang

CAL NO.: 322-20-Z

APPEARANCE FOR: Same as Applicant

MINUTES OF MEETING:
October 16, 2020

APPEARANCE AGAINST: None

PREMISES AFFECTED: 1005 W. 31st Street

NATURE OF REQUEST: Application for a variation to reduce the west side setback from the required 5' to 1', east setback from 5' to 3' for a proposed four-story, mixed use building with fourth floor rooftop access and ground floor commercial use.

**ACTION OF BOARD-
VARIATION GRANTED**

THE VOTE

NOV 23 2020
CITY OF CHICAGO
ZONING BOARD OF APPEALS

TIMOTHY R. KNUDSEN
ZURICH ESPOSITO
BRIAN H. SANCHEZ
SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
X		
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X		
X		

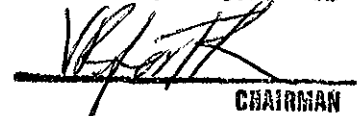
WHEREAS, a public hearing was held on this application by the Zoning Board of Appeals at its regular meeting held on October 16, 2020 after due notice thereof as provided under Section 17-13-0107B and by publication in the Chicago Sun-Times on October 1, 2020; and

WHEREAS, the Zoning Board of Appeals, having reviewed the proposed finding of fact and having fully heard the testimony and arguments of the parties and being fully advised in the premises, hereby finds the following; the applicant shall be permitted to reduce the west side setback to 1', east setback to 3' for a proposed four-story, mixed use building with fourth floor rooftop access and ground floor commercial use; the Board finds 1) strict compliance with the regulations and standards of this Zoning Ordinance would create practical difficulties or particular hardships for the subject property; 2) the requested variation is consistent with the stated purpose and intent of this Zoning Ordinance; 3) the property in question cannot yield a reasonable return if permitted to be used only in accordance with the standards of this Zoning Ordinance; 4) the practical difficulties or particular hardships are due to unique circumstances and are not generally applicable to other similarly situated property; and 5) the variation, if granted will not alter the essential character of the neighborhood, it is therefore

RESOLVED, that the Zoning Board of Appeals, by virtue of the authority conferred upon it, does hereby make a variation in the application of the district regulations of the zoning ordinance and that the foresaid variation request be and it hereby is granted subject to the following condition(s):

That all applicable ordinances of the City of Chicago shall be complied with before a permit is issued.

APPROVED AS TO SUBSTANCE


CHAIRMAN

USPS: 11/23/20

APPLICANT: Agnieszka Ulanowicz-Weeks and Lawrence Weeks CAL NO.: 323-20-Z

APPEARANCE FOR: Same as Applicant

MINUTES OF MEETING:
October 16, 2020

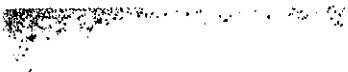
APPEARANCE AGAINST: None

PREMISES AFFECTED: 6709 N. Kinzua Avenue

NATURE OF REQUEST: Application for a variation to reduce the front yard setback from the required 30.75' to 8' for a proposed one-story, front addition to the existing one-story, single family residence.

**ACTION OF BOARD-
VARIATION GRANTED**

THE VOTE



NOV 23 2020

CITY OF CHICAGO
ZONING BOARD OF APPEALS

TIMOTHY R. KNUDSEN
ZURICH ESPOSITO
BRIAN H. SANCHEZ
SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
X		
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X		
X		

WHEREAS, a public hearing was held on this application by the Zoning Board of Appeals at its regular meeting held on October 16, 2020 after due notice thereof as provided under Section 17-13-0107B and by publication in the Chicago Sun-Times on October 1, 2020; and

WHEREAS, the Zoning Board of Appeals, having reviewed the proposed finding of fact and having fully heard the testimony and arguments of the parties and being fully advised in the premises, hereby finds the following; the applicant shall be permitted to reduce the front yard setback to 8' for a proposed one-story, front addition to the existing one-story, single family residence; the Board finds 1) strict compliance with the regulations and standards of this Zoning Ordinance would create practical difficulties or particular hardships for the subject property; 2) the requested variation is consistent with the stated purpose and intent of this Zoning Ordinance; 3) the property in question cannot yield a reasonable return if permitted to be used only in accordance with the standards of this Zoning Ordinance; 4) the practical difficulties or particular hardships are due to unique circumstances and are not generally applicable to other similarly situated property; and 5) the variation, if granted will not alter the essential character of the neighborhood, it is therefore

RESOLVED, that the Zoning Board of Appeals, by virtue of the authority conferred upon it, does hereby make a variation in the application of the district regulations of the zoning ordinance and that the foresaid variation request be and it hereby is granted subject to the following condition(s):

That all applicable ordinances of the City of Chicago shall be complied with before a permit is issued.

APPROVED AS TO SUBSTANCE

CHAIRMAN

USPS: 11/23/20

APPLICANT: Roshni Nails Chicago Ltd. Cal. No. 324-20-S

APPEARANCE FOR: Same as Applicant

MINUTES OF MEETING:
October 16, 2020

APPEARANCE AGAINST: None

PREMISES AFFECTED: 2000 W. Montrose Avenue

NATURE OF REQUEST: Application for a special use to establish a beauty salon.

**ACTION OF BOARD-
APPLICATION APPROVED**

THE VOTE

NOV 23 2020
CITY OF CHICAGO
ZONING BOARD OF APPEALS

TIMOTHY R. KNUDSEN
ZURICH ESPOSITO
BRIAN H. SANCHEZ
SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
X		
X		

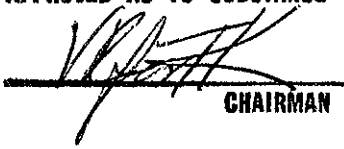
THE RESOLUTION:

WHEREAS, a public hearing was held on this application by the Zoning Board of Appeals at its regular meeting held on October 16, 2020 after due notice thereof as provided under Section 17-13-0107B and by publication in the Chicago Sun-times on October 1, 2020; and

WHEREAS, the Zoning Board of Appeals, having reviewed the proposed finding of fact and having fully heard the testimony and arguments of the parties and being fully advised in the premises, hereby finds the following; the applicant shall be permitted to establish a beauty salon; expert testimony was offered that the use would not have a negative impact on the surrounding community and is in character with the neighborhood; further expert testimony was offered that the use complies with all of the criteria as set forth by the code for the granting of a special use at the subject site; the Board finds the use complies with all applicable standards of this Zoning Ordinance; is in the interest of the public convenience and will not have a significant adverse impact on the general welfare of neighborhood or community; is compatible with the character of the surrounding area in terms of site planning and building scale and project design; is compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise, and traffic generation; and is designed to promote pedestrian safety and comfort; it is therefore

RESOLVED, that the aforesaid special use request be and it hereby is approved and the Zoning Administrator is authorized to permit said special use subject to the following condition(s):

That all applicable ordinances of the City of Chicago shall be complied with before a permit is issued.

APPROVED AS TO SUBSTANCE

CHAIRMAN

USPS: 11/23/20

APPLICANT: Freyja Inc.
APPEARANCE FOR: Same as Applicant
APPEARANCE AGAINST: None
PREMISES AFFECTED: 4955 N. Damen Avenue

Cal. No. 325-20-S

MINUTES OF MEETING:
 October 16, 2020

NATURE OF REQUEST: Application for a special use to establish a hair salon.

**ACTION OF BOARD-
 APPLICATION APPROVED**

THE VOTE

NOV 23 2020
 CITY OF CHICAGO
 ZONING BOARD OF APPEALS

TIMOTHY R. KNUDSEN
 ZURICH ESPOSITO
 BRIAN H. SANCHEZ
 SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
X		
X		

THE RESOLUTION:

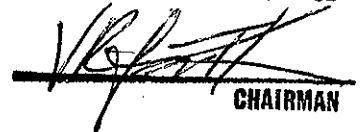
WHEREAS, a public hearing was held on this application by the Zoning Board of Appeals at its regular meeting held on October 16, 2020 after due notice thereof as provided under Section 17-13-0107B and by publication in the Chicago Sun-Times on October 1, 2020; and

WHEREAS, the Zoning Board of Appeals, having reviewed the proposed finding of fact and having fully heard the testimony and arguments of the parties and being fully advised in the premises, hereby finds the following; the applicant shall be permitted to establish a hair salon; expert testimony was offered that the use would not have a negative impact on the surrounding community and is in character with the neighborhood; further expert testimony was offered that the use complies with all of the criteria as set forth by the code for the granting of a special use at the subject site; the Board finds the use complies with all applicable standards of this Zoning Ordinance; is in the interest of the public convenience and will not have a significant adverse impact on the general welfare of neighborhood or community; is compatible with the character of the surrounding area in terms of site planning and building scale and project design; is compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise, and traffic generation; and is designed to promote pedestrian safety and comfort; it is therefore

RESOLVED, that the aforesaid special use request be and it hereby is approved and the Zoning Administrator is authorized to permit said special use subject to the following condition(s):

That all applicable ordinances of the City of Chicago shall be complied with before a permit is issued.

APPROVED AS TO SUBSTANCE


CHAIRMAN

USPS: 11/23/2020

APPLICANT: Roam Salon, LLC

Cal. No. 326-20-S

APPEARANCE FOR: Same as Applicant

MINUTES OF MEETING:

APPEARANCE AGAINST: None

October 16, 2020

PREMISES AFFECTED: 4330 N. Lincoln Avenue

NATURE OF REQUEST: Application for a special use to establish a hair salon.

**ACTION OF BOARD-
APPLICATION APPROVED**

THE VOTE

NOV 23 2020

CITY OF CHICAGO
ZONING BOARD OF APPEALS

TIMOTHY R. KNUDSEN

ZURICH ESPOSITO

BRIAN H. SANCHEZ

SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
X		
X		

THE RESOLUTION:

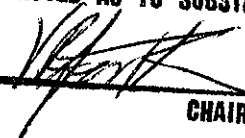
WHEREAS, a public hearing was held on this application by the Zoning Board of Appeals at its regular meeting held on October 16, 2020 after due notice thereof as provided under Section 17-13-0107B and by publication in the Chicago Sun-Times on October 1, 2020; and

WHEREAS, the Zoning Board of Appeals, having reviewed the proposed finding of fact and having fully heard the testimony and arguments of the parties and being fully advised in the premises, hereby finds the following; the applicant shall be permitted to establish a hair salon; expert testimony was offered that the use would not have a negative impact on the surrounding community and is in character with the neighborhood; further expert testimony was offered that the use complies with all of the criteria as set forth by the code for the granting of a special use at the subject site; the Board finds the use complies with all applicable standards of this Zoning Ordinance; is in the interest of the public convenience and will not have a significant adverse impact on the general welfare of neighborhood or community; is compatible with the character of the surrounding area in terms of site planning and building scale and project design; is compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise, and traffic generation; and is designed to promote pedestrian safety and comfort; it is therefore

RESOLVED, that the aforesaid special use request be and it hereby is approved and the Zoning Administrator is authorized to permit said special use subject to the following condition(s):

That all applicable ordinances of the City of Chicago shall be complied with before a permit is issued.

APPROVED AS TO SUBSTANCE


CHAIRMAN

USPS: 11/23/20

APPLICANT: Melissa Gomez dba Dynamic Salon Spa Studios, Co. Cal. No. 327-20-S

APPEARANCE FOR: Same as Applicant

MINUTES OF MEETING:
October 16, 2020

APPEARANCE AGAINST: None

PREMISES AFFECTED: 1754 W. Division Street #1

NATURE OF REQUEST: Application for a special use to establish a massage establishment.

**ACTION OF BOARD-
APPLICATION APPROVED**

THE VOTE

NOV 23 2020
CITY OF CHICAGO
ZONING BOARD OF APPEALS

TIMOTHY R. KNUDSEN
ZURICH ESPOSITO
BRIAN H. SANCHEZ
SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
X		
X		

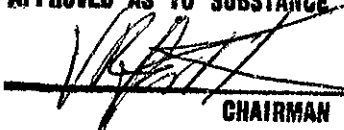
THE RESOLUTION:

WHEREAS, a public hearing was held on this application by the Zoning Board of Appeals at its regular meeting held on October 16, 2020 after due notice thereof as provided under Section 17-13-0107B and by publication in the Chicago Sun-Times on October 1, 2020; and

WHEREAS, the Zoning Board of Appeals, having reviewed the proposed finding of fact and having fully heard the testimony and arguments of the parties and being fully advised in the premises, hereby finds the following; the applicant shall be permitted to establish a massage establishment; expert testimony was offered that the use would not have a negative impact on the surrounding community and is in character with the neighborhood; further expert testimony was offered that the use complies with all of the criteria as set forth by the code for the granting of a special use at the subject site; the Board finds the use complies with all applicable standards of this Zoning Ordinance; is in the interest of the public convenience and will not have a significant adverse impact on the general welfare of neighborhood or community; is compatible with the character of the surrounding area in terms of site planning and building scale and project design; is compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise, and traffic generation; and is designed to promote pedestrian safety and comfort; it is therefore

RESOLVED, that the aforesaid special use request be and it hereby is approved and the Zoning Administrator is authorized to permit said special use subject to the following condition(s): provided the special use is issued solely to the applicant, Melissa Gomez dba Dynamic Salon Spa Studios, Co., and the establishment maintains clear non-reflective windows on the street-facing building facade, which shall not painted over, darkened or obstructed in any way, so that the reception and waiting area is visible from the street.

That all applicable ordinances of the City of Chicago shall be complied with before a permit is issued.

APPROVED AS TO SUBSTANCE

CHAIRMAN

USPS: 11/23/20

ZONING BOARD OF APPEALS, CITY OF CHICAGO, CITY HALL, ROOM 905

APPLICANT: Jamil Walden
APPEARANCE FOR: Same as Applicant
APPEARANCE AGAINST: None
PREMISES AFFECTED: 5329 S. Wabash Avenue

CAL NO.: 328-20-Z

MINUTES OF MEETING:
October 16, 2020

NATURE OF REQUEST: Application for a variation to reduce the north side setback from the required 2' to zero (south to be 5.33') for a proposed two-story, rear addition to the existing two-story, three dwelling unit building.

**ACTION OF BOARD-
VARIATION GRANTED**

THE VOTE

NOV 23 2020
CITY OF CHICAGO
ZONING BOARD OF APPEALS

TIMOTHY R. KNUDSEN
ZURICH ESPOSITO
BRIAN H. SANCHEZ
SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
X		
X		

WHEREAS, a public hearing was held on this application by the Zoning Board of Appeals at its regular meeting held on October 16, 2020 after due notice thereof as provided under Section 17-13-0107B and by publication in the Chicago Sun-Times on October 1, 2020; and

WHEREAS, the Zoning Board of Appeals, having reviewed the proposed finding of fact and having fully heard the testimony and arguments of the parties and being fully advised in the premises, hereby finds the following; the applicant shall be permitted to reduce the north side setback to zero (south to be 5.33') for a proposed two-story, rear addition to the existing two-story, three dwelling unit building; the Board finds 1) strict compliance with the regulations and standards of this Zoning Ordinance would create practical difficulties or particular hardships for the subject property; 2) the requested variation is consistent with the stated purpose and intent of this Zoning Ordinance; 3) the property in question cannot yield a reasonable return if permitted to be used only in accordance with the standards of this Zoning Ordinance; 4) the practical difficulties or particular hardships are due to unique circumstances and are not generally applicable to other similarly situated property; and 5) the variation, if granted will not alter the essential character of the neighborhood, it is therefore

RESOLVED, that the Zoning Board of Appeals, by virtue of the authority conferred upon it, does hereby make a variation in the application of the district regulations of the zoning ordinance and that the foresaid variation request be and it hereby is granted subject to the following condition(s):

That all applicable ordinances of the City of Chicago shall be complied with before a permit is issued.

APPROVED AS TO SUBSTANCE


CHAIRMAN

USPS: 11/23/20

**ZONING BOARD OF APPEALS
CITY OF CHICAGO**

City Hall Room 905
121 North LaSalle Street
Chicago, Illinois 60602
TEL: (312) 744-3888



DEC 21 2020
CITY OF CHICAGO
ZONING BOARD OF APPEALS

CWAZ, LLC
APPLICANT

329-20-S
CALENDAR NUMBER

1152 W. Randolph Street
PREMISES AFFECTED

October 16, 2020
HEARING DATE

ACTION OF BOARD

THE VOTE

The application is approved subject to the conditions set forth in this decision.

AFFIRMATIVE NEGATIVE ABSENT

Timothy Knudsen,
Chairman
Zurich Esposito
Brian Sanchez
Jolene Saul
Sam Toia

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<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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**FINDINGS OF THE ZONING BOARD OF APPEALS
IN THE MATTER OF THE SPECIAL USE APPLICATION FOR 1152 W.
RANDOLPH STREET BY CWAZ, LLC.**

I. BACKGROUND

CWAZ, LLC¹ (the "Applicant") submitted a special use application for 1152 W. Randolph Street (the "subject property"). The subject property is currently zoned DX-3 and is improved with a two-story building (the "building"). The Applicant sought a special use to establish an adult use cannabis dispensary in the basement and first floor of the building.² In accordance with Section 17-13-0903 of the Chicago Zoning Ordinance, the Zoning Administrator of the City's Department of Planning and Development recommended approval of the proposed adult use cannabis dispensary provided that: (1) the special use was issued solely to the Applicant; (2) all on-site customer queuing occurred within the building; and (3) the development was consistent with the design and layout of the plans and drawings dated October 9, 2020, prepared by Steep Architecture Studio LLC.

II. PUBLIC HEARING

A. The Hearing

¹ CWAZ, LLC is a wholly owned subsidiary of Gentle Ventures, LLC d/b/a Dispensary 33.
² The second floor of the building will remain residential.

The ZONING BOARD OF APPEALS held a remote public hearing³ on the Applicant's special use application at its regular meeting on October 16, 2020, after due notice thereof as provided under Sections 17-13-0107-A(9) and 17-13-0107-B of the Chicago Zoning Ordinance and by publication in the *Chicago Tribune*. In accordance with the ZONING BOARD OF APPEALS' Rules of Procedure (eff. June 26, 2020), the Applicant had submitted its proposed Findings of Facts. The Applicant's operational manager for the proposed dispensary Mr. Bryan Zies and the Applicant's attorney Mr. Ashley Brandt were present. Also present on behalf of the Applicant were the Applicant's architect Ms. Jaime Magaliff, the Applicant's security advisor Mr. Saquan Gholar and the Applicant's MAI certified real estate appraiser Mr. Joesph Ryan. Appearing in support of the application were 27th ward alderman Walter Burnett, Jr. (the "Alderman") and Mr. Roger Romanelli.

The Applicant's application was opposed by 1141 West Randolph, LLC. 1141 West Randolph, LLC owns the property commonly known as 1141 W. Randolph Street. To explain 1141 West Randolph LLC's opposition to the application, the ZONING BOARD OF APPEALS must briefly discuss the ZONING BOARD OF APPEALS September 18, 2020 regular meeting (the "September 18th Meeting"). At the September 18th Meeting, the ZONING BOARD OF APPEALS heard and approved an application for a special use for an adult use cannabis dispensary at 1141 W. Randolph Street by NuMed Chicago, LLC (the "NuMed Application").

Section 15-70(p)(15) of the Cannabis Regulation and Tax Act, 410 ILCS 705/1-1 *et seq.* (the "Act"), states that cannabis dispensaries shall not "[b]e located within 1,500 feet of the property line of a pre-existing" dispensary. Although units of local government such as the City can enact reasonable zoning rules, such rules cannot conflict with the Act.⁴ Therefore, although the Chicago Zoning Ordinance does not impose a 1,500-foot required distance between cannabis dispensaries, such 1,500-foot restriction nevertheless controls where the Illinois Department of Professional Regulation ("IDFPR") will allow a cannabis dispensary to be established. 1141 W. Randolph Street is within 250 feet of the subject property. Because of this, the Applicant's parent entity Gentle Ventures, LLC d/b/a Dispensary 33 ("Dispensary 33") along with the owner of the subject property opposed the NuMed Application.⁵

Prior to the September 18th Meeting, Dispensary 33 and the owner of the subject property alleged that there were certain procedural defects with respect to the NuMed Application. The prior chairman of the ZONING BOARD OF APPEALS rejected these allegations. At the hearing on the NuMed Application, Dispensary 33 and owner of the subject property argued that the application did not meet all required criteria for a special use under the Chicago Zoning Ordinance.

Responding tit-for-tat, prior to the hearing on the Applicant's application, 1141 West Randolph LLC also alleged that there were certain procedural defects to the Applicant's

³ In accordance with Section 7(e) of the Open Meetings Act, 5 ILCS 120/1 *et seq.*

⁴ See Section 55-25(1) of the Act.

⁵ See record of the ZONING BOARD OF APPEALS' Cal. No. 285-20-S, especially the ZONING BOARD OF APPEALS' resolution rendered thereon in which the ZONING BOARD OF APPEALS found that the Dispensary 33's opposition to the NuMed Application "stemmed solely from competition."

application.⁶ At the hearing, 1141 West Randolph, LLC's manager Mr. Rushi Shah and its attorney Mr. Roger Minetz were present. Also present on behalf of 1141 West Randolph LLC was the architect of record for the NuMed Application Mr. Gil Magnelli. The statements and testimony given during the hearing were given in accordance with the ZONING BOARD OF APPEALS' Rules of Procedure and its Emergency Rules (eff. September 9, 2020)⁷.

At the start of the hearing, the Chairman made some opening remarks, namely that the proposed special use would be reviewed within the regulatory framework established by the Chicago Zoning Ordinance and the Act. He advised how the hearing would proceed and reminded everyone present that they had the right of cross-examination.

The Applicant's attorney Mr. Ashley Brandt provided a brief overview of the Applicant's application.

The Alderman offered testimony in support of the Applicant's application.

The Applicant offered the testimony of the operational manager for the proposed dispensary Mr. Bryan Zies in support of the application.

The Applicant offered the testimony of its MAI certified real estate appraiser Mr. Joseph Ryan in support of the application. The ZONING BOARD OF APPEALS recognized his credentials as an expert in real estate appraisal.

The Applicant offered the testimony of its security consultant Mr. Saquan Gholar in support of the application.

The Applicant offered the testimony of its architect Ms. Jaime Magaliff in support of the application.

Mr. Roger Romanelli offered testimony in support of the application.

Prior to the start of 1141 West Randolph, LLC's arguments in opposition to the application, the Chairman advised that: (a) the control or restriction of competition is not a proper or lawful zoning objective; and (b) he would not be entertaining any arguments raised in 1141 West Randolph, LLC's October 12, 2020 statement of objections regarding economic disclosure statements, as the Applicant properly updated its economic disclosure statements as required by Section 2-154-020 of the Municipal Code of Chicago ("MCC").

1141 West Randolph, LLC offered the testimony of its manager Mr. Rushi Shah in opposition to the application.

⁶ Though admittedly, the alleged procedural defects were different. In this instance, the allegations involved Section 2-154-010 of the Municipal Code of Chicago rather than Sections 17-13-0905-G and 17-14-0303-H of the Chicago Zoning Ordinance.

⁷ Such Emergency Rules were issued by the Chairman of the ZONING BOARD OF APPEALS in accordance with his emergency rule-making powers set forth in the Rules of Procedure.

1141 West Randolph, LLC offered the testimony of architect Mr. Magnelli in opposition to the application.

In response to Mr. Magnelli's testimony and certain questions by the ZONING BOARD OF APPEALS, Mr. Zies offered further testimony. In particular, he testified that the Applicant was not planning on having a coffee shop on the premises.

Mr. Minetz cross-examined Mr. Zies.

In response to questions by the ZONING BOARD OF APPEALS, Mr. Shah offered further testimony.

In response to questions by the ZONING BOARD OF APPEALS, Mr. Zies offered further testimony. In particular and in response to a possible condition of approval of the special use by the ZONING BOARD OF APPEALS, Mr. Zies testified that while the Applicant would not have a coffee shop at the proposed dispensary, the Applicant would like to be able to serve complimentary coffee to its customers. He specifically testified that the Applicant was only in the business of being a cannabis dispensary and that the Applicant was not interested in any other business or business model.

Mr. Brandt recalled Ms. Magaliff for rebuttal testimony.

Mr. Minetz cross-examined Ms. Magaliff.

In response to questions from the ZONING BOARD OF APPEALS, Mr. Zies offered further testimony in support of the application.

Mr. Minetz made a closing statement.

Mr. Brandt made a closing statement.

B. Criteria for a Special Use for a Cannabis Business Establishment

Pursuant to Section 17-13-0905-A of the Chicago Zoning Ordinance, no special use application may be approved unless the ZONING BOARD OF APPEALS finds that the proposed use in its proposed location meets all of the following criteria: (1) it complies with all applicable standards of the Chicago Zoning Ordinance; (2) it is in the interest of the public convenience and will not have a significant adverse impact on the general welfare of the neighborhood or community; (3) it is compatible with the character of the surrounding area in terms of site planning and building scale and project design; (4) it is compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise and traffic generation; and (5) it is designed to promote pedestrian safety and comfort.

Pursuant to Section 17-13-0905-G of the Chicago Zoning Ordinance, no special use for a cannabis business establishment may be approved unless the ZONING BOARD OF APPEALS finds that the applicant for such special use has held at least one community meeting in the ward in which the cannabis business establishment is proposed to be

located for the purpose of explaining the proposal and soliciting comments on it. Such community meeting must be held no later than two weeks prior to the date of the anticipated special use hearing before the ZONING BOARD OF APPEALS. The applicant must notify the Chairman of the ZONING BOARD OF APPEALS and the Alderman of the ward in which the cannabis business establishment is proposed to be located in writing of the time, place and purpose of the community meeting. The applicant must publish notice in a newspaper of general circulation within the ward and the applicant must send written notice by USPS first class mail to the property owner of the subject property and to all property owners within 250 feet of the property lines of the subject property. Such applicant shall furnish a complete list of the names and last known addresses of the persons provided with such written notice as well as a written affidavit certifying compliance with such written notice to the Chairman of the ZONING BOARD OF APPEALS on or before the public hearing is held by the ZONING BOARD OF APPEALS, in a form prescribed by the Commissioner of the Department of Planning and Development.

Pursuant to the ZONING BOARD OF APPEALS' Supplemental Rule for Cannabis Business Establishments dated June 26, 2020, Governing the Conduct of Cannabis Business Establishment Community Meetings ("Supplemental Rule"), in addition to the requirements of Section 17-13-0905-G of the Chicago Zoning Ordinance, each community meeting held on or after March 20, 2020⁸ must: (1) be comprised of at least three (3) physical sessions so that the maximum amount of persons that wish to physically attend the community meeting may have the opportunity; and (2) that each session has a virtual component so that those that wish to attend and participate but do not want to physically attend can virtually attend and participate.

III. FINDINGS OF FACT

After careful consideration of the evidence, testimony and the entire record, including the Applicant's proposed Findings of Fact, the ZONING BOARD OF APPEALS hereby makes the following findings with reference to the Applicant's application for a special use pursuant to Section 17-13-0905-A of the Chicago Zoning Ordinance:

1. The proposed special use complies with all applicable standards of the Chicago Zoning Ordinance.

As a threshold matter, the ZONING BOARD OF APPEALS finds that the Applicant met all application requirements for an adult cannabis dispensary special use. At the time the Applicant filed its application, it was obligated under the MCC to provide economic disclosure statements.⁹ In this particular case, as the Applicant changed its

⁸ The date upon which the Governor of the State of Illinois issued Executive Order 2020-10 in response to the COVID-19 public health emergency. Among other things, Executive Order 2020-10 limited the amount of people that may attend public gatherings. Although Executive Order 2020-10 no longer governs the COVID-19 public health emergency, the amount of people that may attend public gatherings remains limited.

⁹ Section 2-154-010 of the MCC ("Whenever any corporation; partnership; business trust; estate; two or more persons having a joint or common interest; other commercial interest of legal entity; trustee of a land

members and managers between the time of filing its application and the time its application was heard by the ZONING BOARD OF APPEALS, the Applicant was also obligated under the MCC to update these economic disclosure statements.¹⁰ No party can credibly claim prejudice because the Applicant followed the law, and the ZONING BOARD OF APPEALS rejects any argument to the contrary.

Turning to substance, and as shown by the Applicant's land use map (Exhibit D-7), the proposed special use is 500' or more from a school as required by Section 17-9-0129(3) of the Chicago Zoning Ordinance. The subject property is located in a DX-3 zoning district. Adult use cannabis dispensaries are a special use in a DX-3 zoning district.¹¹ The Applicant is seeking no other relief from the Chicago Zoning Ordinance. It is only the special use that brings the Applicant before the ZONING BOARD OF APPEALS. As testified to by Ms. Magaliff, the Applicant's proposed dispensary otherwise conforms with the Chicago Zoning Ordinance. The ZONING BOARD OF APPEALS finds Ms. Magaliff to be a very credible witness with respect to this application. Since the ZONING BOARD OF APPEALS has decided to grant the special use to the Applicant, the Applicant's proposed special use therefore complies with all applicable standards of the Chicago Zoning Ordinance.

2. *The proposed special use is in the interest of the public convenience and will not have a significant adverse impact on the general welfare of the neighborhood or community.*

The proposed special use is in the interest of the public convenience as it will provide retail products for which (as has been evident over the past nine months¹²) there is very high demand. The proposed special use will not have a significant adverse impact on the general welfare of the neighborhood or community. The ZONING BOARD OF APPEALS finds Mr. Zies and Mr. Gholar to be very credible witnesses, especially with respect to how the Applicant's proposed dispensary would operate. The ZONING BOARD OF APPEALS finds that whether or not an adult use cannabis dispensary – as with all special uses that involve a controlled substance and cash – has a significant adverse impact on the general welfare of the neighborhood depends on the operation of the adult use cannabis dispensary. From Mr. Zies' testimony, it is

trust or any beneficiary or beneficiaries thereof (for purposes of this section, collectively the 'applicant') makes application to the City of Chicago (emphasis added)).

¹⁰ Section 2-154-020 of the MCC ("All disclosures and information shall be current as of the date upon which the application is presented to the city council or other city agency, and shall be maintained current until such time as the city council or other city agency shall take action on the application.").

¹¹ Pursuant to Sections 17-4-0207-AAA(1) of the Chicago Zoning Ordinance.

¹² The ZONING BOARD OF APPEALS takes judicial notice of the fact that since adult use cannabis became legal in Illinois on January 1, 2020, cannabis dispensaries have had long lines and have frequently sold out of adult use cannabis products.

clear that Mr. Zies has past experience operating an adult use cannabis dispensary and understands that the two of the greatest areas of concern in a cannabis dispensary are customer flow – even prior to the COVID-19 health pandemic – and product loading/unloading. Further, from Mr. Gholar's testimony and affidavit it is clear that Mr. Gholar has previous experience overseeing security of an adult use cannabis dispensary and understands the safety concerns regarding loading/unloading of product and cash as well as the safe storage of said product and cash. The ZONING BOARD OF APPEALS finds that, based on the testimony and averments of Mr. Zies and Mr. Gholar, the plans and drawings of the proposed dispensary, Dispensary 33's Operations Manual (Exhibit D-1) and the Applicant's Security Plan (Exhibit D-3), the proposed special use will be operated in such a manner that it will not have a significant adverse impact on the general welfare of the neighborhood.

In addition, and as credibly testified to by Ms. Magaliff, the proposed dispensary has been designed to comply with all provisions of the Chicago Building Code. Therefore, safe ingress/egress to the proposed dispensary, fire safety and ADA accessibility are all adequately addressed. She also credibly testified that she had designed the proposed dispensary so that it was in compliance with all State of Illinois regulations. Moreover, and as shown by Mr. Ryan's report, adult use cannabis dispensaries do not have adverse impact on neighboring property values. They also do not lead to an increase in crime. As set forth in Mr. Ryan's report, this is likely due to the high level of increased security at adult use cannabis dispensaries. The ZONING BOARD OF APPEALS finds Mr. Ryan and his report to be very credible.

In contrast, the ZONING BOARD OF APPEALS finds 1146 West Randolph, LLC and its witnesses to have zero credibility. The ZONING BOARD OF APPEALS finds that 1146 West Randolph, LLC's opposition to the Applicant's application was solely in response to Dispensary 33's opposition to the NuMed Application. The ZONING BOARD OF APPEALS has severe doubts that 1146 West Randolph, LLC would have opposed the Applicant's application had it not been for Dispensary 33's prior actions. Indeed, 1146 West Randolph, LLC's witnesses at this hearing raised the very same issues – ingress/egress and traffic – that Dispensary 33's witnesses raised at the September 18th Meeting. And, like the testimony of Dispensary 33's witnesses at the September 18th Meeting, the negative conclusions drawn with respect to ingress/egress and traffic were purely speculative and without merit.¹³

3. *The proposed special use is compatible with the character of the surrounding area in terms of site planning and building scale and project design.*

¹³ Although the ZONING BOARD OF APPEALS does commend Mr. Magnelli from refraining from repeating Dispensary 33's witnesses' wildly speculative testimony regarding active shooters.

The proposed special use will be located within the building. As can be seen from comparing the proposed dispensary's plans and renderings and photographs of the building as it now exists, the proposed special use will not significantly alter the exterior of the building. The building itself is one typical of the West Loop area in general and of this portion of West Randolph Street in particular. As can be seen from the photographs, it is an old, multi-story brick building with commercial as its ground floor use. In this, as stated in Mr. Ryan's report, it is consistent with other buildings on this particular block of West Randolph. Thus, the proposed special use is compatible with the surrounding area in terms of site planning and building scale. In terms of project design, the surrounding area – as seen from the Applicant's land use map (Exhibit D-7) – is mostly mixed-use, industrial use and retail use. An adult use cannabis dispensary – itself a retail use – is therefore generally compatible in terms of project design. In terms of specifics, the site plans show – and Mr. Zies' testimony reveals – that the proposed special use has been carefully designed to ensure that customers will not in any way disrupt the streetscape. Further, and as also testified by Mr. Zies, all loading/unloading of product will occur from the building's enclosed garage. Thus, the proposed special use is compatible with the character of the surrounding area in terms of site planning and building scale and project design.

4. *The proposed special use is compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise and traffic generation.*

The subject property is located in the portion of the City colloquially known as the West Loop.¹⁴ As accurately recounted in Mr. Zies' affidavit, the West Loop is "an urban destination for commercial, entertainment, restaurant, hospitality and residential uses." West Randolph Street is a major commercial corridor at this location and has many restaurants as well as other retail uses. Indeed, and as can be seen from the photographs, City Winery is located directly across Racine Street from the subject property while Art+Science is located only a few storefronts down from the subject property. Thus, the Applicant's proposed hours of operation are compatible with the surrounding area.

As set forth in the Applicant's proposed Findings of Fact, the proposed special use will add outdoor lighting to the building. This outdoor lighting will only be added for security purposes and will be directed or shielded to prevent light spillage onto adjacent properties. Further, as the proposed special use will be entirely contained within the building, any exterior noise generated by the

¹⁴ Technically, and as referenced in Mr. Ryan's report, the subject property is located in the Fulton Market District; however, as "West Loop" is how the area was mainly (with the exception of Mr. Ryan and, in one instance, Commissioner Toia) referred to at the hearing, the ZONING BOARD OF APPEALS has chosen to use "West Loop" throughout this resolution.

proposed special use would be minimal. Traffic generation from the proposed special use would be compatible with the aforementioned restaurant and retail uses. In particular, based on the Applicant's business model and the fact that there is no on-site consumption of cannabis allowed in the City, the proposed use will not tie up public parking as long as the nearby restaurants. The ZONING BOARD OF APPEALS finds Mr. Zies to be a very credible witness with respect to the Applicant's business model. In contrast, and as noted above, the ZONING BOARD OF APPEALS did not find any of 1146 West Randolph, LLC's witnesses to be particularly credible. Further, there is ample public transportation available in the West Loop, which keeps traffic generation on this and other nearby uses low. In sum, the ZONING BOARD OF APPEALS finds that the proposed special use is compatible with the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise and traffic generation.

5. *The proposed special use is designed to promote pedestrian safety and comfort.*

The proposed special use will greatly enhance security of the subject property in the form of security cameras and security personnel. This enhanced security will promote pedestrian safety and comfort. As the Applicant is committed to ensuring that there are no outdoor customer queuing lines, the Applicant's customers will not block sidewalks or otherwise obstruct the public way for pedestrians. All product loading and unloading will take place in an enclosed garage, again ensuring that the Applicant's operations at the subject property promote pedestrian safety and comfort.

After careful consideration of the evidence, testimony and the entire record, the ZONING BOARD OF APPEALS hereby makes the following findings with reference to the Applicant's application for a special use pursuant to Section 17-13-0905-G of the Chicago Zoning Ordinance:

1. Based on the Applicant's submissions to the ZONING BOARD OF APPEALS, the ZONING BOARD OF APPEALS finds that the Applicant has held its required community meeting in accordance with Section 17-13-0905-G of the Chicago Zoning Ordinance and with the ZONING BOARD OF APPEALS' Supplemental Rule.

IV. CONCLUSION

For all of these reasons, the ZONING BOARD OF APPEALS finds that the Applicant has proved its case by evidence, testimony and the entire record, including the Applicant's proposed Findings of Fact, covering the specific criteria for a special use pursuant to Sections 17-13-0905-A and 17-13-0905-G of Chicago Zoning Ordinance.

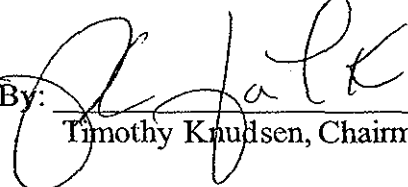
The ZONING BOARD OF APPEALS hereby approves the Applicant's application for a special use, and pursuant to the authority granted to the ZONING BOARD OF

APPEALS by Section 17-13-0906 of the Chicago Zoning Ordinance, the Zoning Administrator is authorized to permit said special use subject to the following conditions:

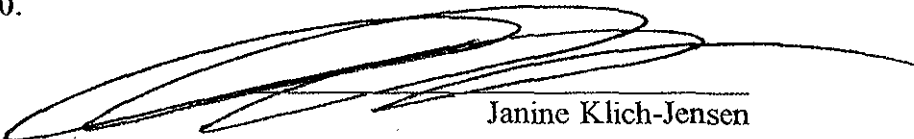
1. The special use shall be issued solely to the Applicant;
2. All on-site customer queuing shall occur within the building;
3. The special use shall be developed consistently with the design and layout of the plans and drawings dated October 9, 2020, prepared by Steep Architecture Studio LLC; and
4. No non-cannabis customers or other business (including, but not limited to, a coffee shop) shall be present on the subject property.

This is a final decision subject to review under the Illinois Administrative Review Law, 735 ILCS 5/3-101 *et seq.*

APPROVED AS TO SUBSTANCE

By: 
Timothy Knudsen, Chairman

I, Janine Klich-Jensen, staff person for the ZONING BOARD OF APPEALS, certify that I caused this to be placed in the USPS mail at 121 North LaSalle Street, Chicago, IL on 12/21, 2020.


Janine Klich-Jensen

ZONING BOARD OF APPEALS, CITY OF CHICAGO, CITY HALL, ROOM 905

APPLICANT: Greg Shipley **CAL NO.:** 330-20-Z
APPEARANCE FOR: Nicholas Ftikas **MINUTES OF MEETING:**
October 16, 2020
APPEARANCE AGAINST: None
PREMISES AFFECTED: 1421 W. Edgewater Avenue

NATURE OF REQUEST: Application for a variation to reduce the front setback from the required 10.28' to 4.06', west side setback from 2' to 0.17' (east to be 3.1'), combined side setback from 5' to 3.25' for a new loft within an existing two-story, two dwelling unit building with new front balcony.

**ACTION OF BOARD-
VARIATION GRANTED**

THE VOTE

NOV 23 2020
CITY OF CHICAGO
ZONING BOARD OF APPEALS

TIMOTHY R. KNUDSEN
ZURICH ESPOSITO
BRIAN H. SANCHEZ
SAM TOIA


AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
X		
X		

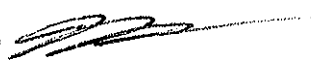
WHEREAS, a public hearing was held on this application by the Zoning Board of Appeals at its regular meeting held October 16, 2020 after due notice thereof as provided under Section 17-13-0107B and by publication in the Chicago Sun-times on October 1, 2020; and

WHEREAS, the Zoning Board of Appeals, having reviewed the proposed finding of fact and having fully heard the testimony and arguments of the parties and being fully advised in the premises, hereby finds the following; the applicant shall be permitted to reduce the front setback to 4.06', west side setback to 0.17' (east to be 3.1'), combined side setback to 3.25' for a new loft within an existing two-story, two dwelling unit building with new front balcony; an additional variation was granted to the subject property in Cal. No. 331-20-Z; the Board finds 1) strict compliance with the regulations and standards of this Zoning Ordinance would create practical difficulties or particular hardships for the subject property; 2) the requested variation is consistent with the stated purpose and intent of this Zoning Ordinance; 3) the property in question cannot yield a reasonable return if permitted to be used only in accordance with the standards of this Zoning Ordinance; 4) the practical difficulties or particular hardships are due to unique circumstances and are not generally applicable to other similarly situated property; and 5) the variation, if granted will not alter the essential character of the neighborhood, it is therefore

RESOLVED, that the Zoning Board of Appeals, by virtue of the authority conferred upon it, does hereby make a variation in the application of the district regulations of the zoning ordinance and that the foresaid variation request be and it hereby is granted subject to the following condition(s):

That all applicable ordinances of the City of Chicago shall be complied with before a permit is issued.

APPROVED AS TO SUBSTANCE

CHAIRMAN

USPS: 11/23/20 

APPLICANT: Greg Shipley

CAL NO.: 331-20-Z

PEARANCE FOR: Nicholas Ftikas

MINUTES OF MEETING:
October 16, 2020

APPEARANCE AGAINST: None

PREMISES AFFECTED: 1421 W. Edgewater Avenue

NATURE OF REQUEST: Application for a variation to increase the maximum 2,221.08 square feet of floor area that has existed for more than fifty years to 2,581.43 square feet for a total of 2,911.43 square feet for a proposed new loft in an existing two-story, two dwelling unit building.

**ACTION OF BOARD-
VARIATION GRANTED**

THE VOTE

NOV 23 2020
CITY OF CHICAGO
ZONING BOARD OF APPEALS

TIMOTHY R. KNUDSEN
ZURICH ESPOSITO
BRIAN H. SANCHEZ
SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
X		
X		

WHEREAS, a public hearing was held on this application by the Zoning Board of Appeals at its regular meeting held on October 16, 2020 after due notice thereof as provided under Section 17-13-0107B and by publication in the Chicago Sun-Times on October 1, 2020; and

WHEREAS, the Zoning Board of Appeals, having reviewed the proposed finding of fact and having fully heard the testimony and arguments of the parties and being fully advised in the premises, hereby finds the following; the applicant shall be permitted to increase the maximum 2,221.08 square feet of floor area that has existed for more than fifty years to 2,581.43 square feet for a total of 2,911.43 square feet for a proposed new loft in an existing two-story, two dwelling unit building; an additional variation was granted to the subject property in Cal. No. 330-20-Z; the Board finds 1) strict compliance with the regulations and standards of this Zoning Ordinance would create practical difficulties or particular hardships for the subject property; 2) the requested variation is consistent with the stated purpose and intent of this Zoning Ordinance; 3) the property in question cannot yield a reasonable return if permitted to be used only in accordance with the standards of this Zoning Ordinance; 4) the practical difficulties or particular hardships are due to unique circumstances and are not generally applicable to other similarly situated property; and 5) the variation, if granted will not alter the essential character of the neighborhood, it is therefore

RESOLVED, that the Zoning Board of Appeals, by virtue of the authority conferred upon it, does hereby make a variation in the application of the district regulations of the zoning ordinance and that the foresaid variation request be and it hereby is granted subject to the following condition(s):

That all applicable ordinances of the City of Chicago shall be complied with before a permit is issued.

APPROVED AS TO SUBSTANCE


CHAIRMAN

USPS: 11/23/20

**ZONING BOARD OF APPEALS
CITY OF CHICAGO**

City Hall Room 905
121 North LaSalle Street
Chicago, Illinois 60602
TEL: (312) 744-3888



JAN 19 2021

CITY OF CHICAGO
ZONING BOARD OF APPEALS

811 N. Francisco Inc.

APPLICANTS

332-20-Z

CALENDAR NUMBER

807 N. Francisco Avenue

PREMISES AFFECTED

October 16, 2020

HEARING DATE

ACTION OF BOARD

THE VOTE

The application for the variation is denied.

AFFIRMATIVE NEGATIVE ABSENT

Timothy Knudsen,
Chairman
Zurich Esposito
Sylvia Garcia
Jolene Saul
Sam Toia

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<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**FINDINGS OF THE ZONING BOARD OF APPEALS
IN THE MATTER OF THE VARIATION APPLICATION FOR 807 N.
FRANCISCO AVENUE BY 811 N. FRANCISCO INC.**

I. BACKGROUND

811 N. Francisco Inc. (the "Applicant") submitted a variation application for 807 N. Francisco Avenue (the "subject property"). The subject property is currently zoned C1-2 and is currently improved with a four-story, four dwelling unit building, (the "building"). The Applicant previously sought a special use to establish residential use below the second floor at the subject property. Such special use was granted by the ZONING BOARD OF APPEALS on July 19, 2019 under Board Cal. No. 393-19-S. The Applicant proposed to construct a four-story rear deck structure to the building. In order to permit this deck structure, the Applicant sought a variation to reduce the rear setback on floors containing dwelling units from the required 30' to 2.'

II. PUBLIC HEARING

A. The Hearing

The ZONING BOARD OF APPEALS held a remote public hearing¹ on the Applicant's variation applications at its regular meeting held on October 16, 2020, after

¹ In accordance with Section 7(e) of the Open Meetings Act, 5 ILCS 120/1 *et seq.*

due notice thereof as provided under Sections 17-13-0107-A(9) and 17-13-0107-B of the Chicago Zoning Ordinance and by publication in the *Chicago Sun-Times*. In accordance with the ZONING BOARD OF APPEALS' Rules of Procedure (eff. June 26, 2020), the Applicant had submitted its proposed Findings of Facts. In accordance with the ZONING BOARD OF APPEALS' Emergency Rules (eff. September 9, 2020)² the Applicant had submitted all documentary evidence by 5:00 PM on Monday, October 12, 2020. The Applicant's project manager Mr. Andriy Stetsyuk and its attorney Mr. Nick Ftikas were present. The Applicant's architect Mr. John Hanna was present. The Assistant Zoning Administrator Mr. Steven Valenziano was also present. The statements and testimony given during the public hearing were given in accordance with the ZONING BOARD OF APPEALS' Rules of Procedure and its Emergency Rules.

The Applicants' attorney Mr. Nick Ftikas offered background as to the application.

The Applicant's project manager Mr. Andriy Stetsyuk offered testimony in support of the application.

The Applicant's project architect Mr. John Hanna offered testimony in support of the application.

In response to questions from the ZONING BOARD OF APPEALS, Mr. Ftikas offered further background and Mr. Hanna offered further testimony.

In response to Mr. Ftikas' statements and Mr. Hanna's testimony, Assistant Zoning Administrator Steven Valenziano offered testimony.

In response to questions from the ZONING BOARD OF APPEALS, Mr. Stetsyuk and Mr. Hanna offered further testimony.

In response to questions from the ZONING BOARD OF APPEALS, Mr. Ftikas offered further background.

B. Criteria for a Variation

Pursuant to Section 17-13-1107-A of the Chicago Zoning Ordinance, no variation application may be approved unless the ZONING BOARD OF APPEALS finds, based upon the evidence presented to it in each specific case, that: (1) strict compliance with the standards of the Chicago Zoning Ordinance would create practical difficulties or particular hardships; and (2) the requested variation is consistent with the stated purpose and intent of the Chicago Zoning Ordinance.

Pursuant to Section 17-13-1107-B of the Chicago Zoning Ordinance, in order to determine that practical difficulties or particular hardships exist, the ZONING BOARD OF APPEALS must find evidence of each of the following: (1) the property in question

² Such Emergency Rules were issued by the Chairman of the ZONING BOARD OF APPEALS in accordance with his emergency rule-making powers set forth in the Rules of Procedure.

cannot yield a reasonable return if permitted to be used only in accordance with the standards of the Chicago Zoning Ordinance; (2) the practical difficulties or particular hardships are due to unique circumstances and are not generally applicable to other similarly situated property; and (3) the variation, if granted, will not alter the essential character of the neighborhood.

Pursuant to Section 17-13-1107-C of the Chicago Zoning Ordinance, in making its determination of whether practical difficulties or particular hardships exist, the ZONING BOARD OF APPEALS must take into consideration the extent to which evidence has been submitted substantiating the following facts: (1) the particular physical surroundings, shape or topographical condition of the specific property involved would result in a particular hardship upon the property owner as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out; (2) the conditions upon which the petition for a variation is based would not be applicable, generally, to other property within the same zoning classification; (3) the purpose of the variation is not based exclusively upon a desire to make more money out of the property; (4) the alleged practical difficulty or particular hardship has not been created by any person presently having an interest in the property; (5) the granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located; and (6) the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.

III. FINDINGS OF FACT.

After careful consideration of the evidence, testimony and the entire record, including the Applicant's proposed Findings of Fact, the ZONING BOARD OF APPEALS hereby makes the following findings with reference to the Applicant's application for a variation pursuant to Section 17-13-1107-A of the Chicago Zoning Ordinance:

1. *Strict compliance with the regulations and standards of the Chicago Zoning Ordinance would not create practical difficulties or particular hardships for the subject property.*

As a threshold matter, whether or not the Applicant submitted plans showing the rear porch system to the ZONING BOARD OF APPEALS as part of its special use application in Board Cal. No. 393-19-S is not relevant. At issue in Board Cal. No. 393-19-S was the Applicant's request for a special use to establish residential use below the second floor at the subject property. Simply showing the plans that included the rear porch system to the ZONING BOARD OF APPEALS in Board Cal. No. 393-19-S does not mean that the ZONING BOARD OF APPEALS simultaneously granted a variation to reduce the rear setback at the subject

property. As such, when the Applicant applied for its building permit³, the City's Zoning Administrator properly denied the proposed rear porch system. The ZONING BOARD OF APPEALS does not agree with Mr. Ftikas' statement that the Zoning Administrator erred in its initial review of the plans. It is far more likely, as testified to by Assistant Zoning Administrator Valenziano, that the Applicant wrote up its own zoning denial for the special use and thereby bypassed a review of the plans by the Zoning Administrator. The ZONING BOARD OF APPEALS does not find Mr. Hanna's testimony on the revisions to the permit at all credible. Indeed, the ZONING BOARD OF APPEALS cannot reconcile how an architect that has practiced in the City and has regularly appeared before this ZONING BOARD OF APPEALS for years did not know that a variation was required for the rear deck system. His testimony on the Zoning Administrator's "reinterpretation" of the Chicago Zoning Ordinance was particularly egregious and had zero credibility. However, regardless of the reason for the error, the error itself is also not relevant. Indeed, after direct questioning by the ZONING BOARD OF APPEALS, Mr. Ftikas stated that the Applicant's argument with respect to practical difficulty or particular hardship rested on the fact that the subject property had a 60' lot depth.

But it does not follow that simply because the subject property has a 60' lot depth that the Applicant is entitled to a variation. Though the subject property is shallower than the standard lot in Chicago (60' vs. 125'), it is more than three times the width of the standard Chicago lot (79.92' vs. 25'). Such width results in a larger than standard area. The standard Chicago lot has an area of 3,125 square feet. In comparison, the subject property has an area of 4,795.2 square feet. The Applicant has failed to show – either through testimony or documentary evidence – to the ZONING BOARD OF APPEALS why the outsized width and area of the subject property does not overcome any deficiency in its depth. Indeed, all the Applicant has showed to the ZONING BOARD OF APPEALS is that the Applicant chose a specific program of development for the subject property that required the requested variation. However, instead of coming before the ZONING BOARD OF APPEALS for the variation, the Applicant – once its initial building permit was denied – revised its permit to remove the rear deck structure. Then, only after the shell of the building was constructed and the rough inspections passed, did the Applicant return to the ZONING BOARD OF APPEALS with the argument that 60' lot depth prevented the Applicant from installing the rear porch structure. This is not a practical difficulty or particular

³ In accordance with Sections 17-13-1301, 17-13-1302 & 17-14-0202-O of the Chicago Zoning Ordinance; see also *1350 Lake Shore Associates v. Mazur-Berg*, 339 Ill.App.3d 618, 629 (1st Dist. 2003).

hardship. This is an attempt at *fait accompli* and, as such, is solely for the Applicant's profit and convenience.

2. *The requested variation is inconsistent with the stated purpose and intent of the Chicago Zoning Ordinance.*

Pursuant to Section 17-1-0513 of the Chicago Zoning Ordinance, the purpose and intent of the Chicago Zoning Ordinance is to "establis[h] clear and efficient development review and approval procedures." One such procedure is the requirement that the ZONING BOARD OF APPEALS may not approve a variation unless it makes findings, based on the evidence submitted to it in each case, that strict compliance with the regulations and standards of the Chicago Zoning Ordinance would create practical difficulties or particular hardships for the subject property. Since the ZONING BOARD OF APPEALS declines to find that strict compliance with the regulations and standards of the Chicago Zoning Ordinance would create practical difficulties or particular hardships for the subject property, the requested variations are not consistent with the Chicago Zoning Ordinance's clear and efficient development review and approval procedures.

After careful consideration of the evidence, testimony and the entire record, including the Applicant's proposed Findings of Fact, the ZONING BOARD OF APPEALS hereby makes the following findings with reference to the Applicant's applications for a variation pursuant to Section 17-13-1107-B of the Chicago Zoning Ordinance:

1. *The Applicant failed to prove that the property in question cannot yield a reasonable return if permitted to be used only in accordance with the standards of the Chicago Zoning Ordinance.*

The only evidence the Applicant provided as to this criterion was a brief, two-paragraph document stating that, if the variation were to be granted, the Applicant would realize a 13% return on its investment. This does not prove, in and of itself, that the subject property cannot yield a reasonable rate of return if permitted to be used only in accordance with the standards of the Chicago Zoning Ordinance. Such a document instead merely shows (if such a document can indeed be said to prove anything at all) that the variation will allow the Applicant to make some amount of profit. The document is silent as to what return would be achievable without the variation. The same can be said of Mr. Ftikas' statement that without the variation the Applicant would be "at a disadvantage in the marketplace." And, indeed, it is clear from the Applicant's actions that the subject property is able to yield a reasonable return. If it were really the case that

the subject property could not yield a reasonable return without the variation, the Applicant would not have revised its permit to remove the rear deck structure and begun constructing the building. Instead, it would have – once its initial permit was denied – returned to the ZONING BOARD OF APPEALS with a request for variation as well as an actual argument as to why the subject property's oversized lot width could not overcome the lot's substandard depth.

2. *Any practical difficulty or particular hardship is not due to unique circumstances and is generally applicable to other similarly situated property.*

The ZONING BOARD OF APPEALS has declined to find the existence of a practical difficulty or particular hardship. To the extent that there is a practical difficulty or particular hardship in this matter, it is simply that without the rear porch structure, the Applicant may make less money on its investment (or, in the words of Mr. Ftikas be “at a disadvantage in the marketplace”). However, this is not a unique circumstance and is indeed generally applicable to any property purchased for real estate development. Real estate developers such as the Applicant often do not make as much as they would like on their investments. Such loss is inherent to the real estate market.

3. *The Applicant failed to prove that the variation, if granted, will not alter the essential character of the neighborhood.*

It is up the Applicant to prove its case. The Applicants provided no credible evidence as to this criterion. The Applicant provided no photographs of the neighborhood so that the ZONING BOARD OF APPEALS could judge how the proposed rear porch structure would look when compared to the rest of the neighborhood. Instead, the Applicant provided only the conclusory testimony of Mr. Hanna, who provided no concrete examples.

After careful consideration of the evidence, testimony and the entire record, including the Applicant's proposed Findings of Fact, the ZONING BOARD OF APPEALS hereby makes the following findings with reference to the Applicant's application for a variation pursuant to Section 17-13-1107-C of the Chicago Zoning Ordinance:

1. *The particular physical surroundings, shape or topographical condition of the specific property involved would not result in a particular hardship upon the property owner as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.*

The subject property is regular in shape. While the subject property is only 60' deep, the ZONING BOARD OF APPEALS finds this to be – at most -- a mere

inconvenience to the Applicant. The substandard lot depth does not prevent the Applicant from developing the subject property. In fact, the Applicant has already erected the shell of the building. The shell of the building, however, cannot be considered a particular hardship to the Applicant. Indeed, the Applicant knowingly chose a program of development for which a variation was needed, erected the building without the variation and then came to the ZONING BOARD OF APPEALS for the variation. This is not a practical difficulty or particular hardship; this is a strategic decision by the Applicant for its profit and convenience. Nor did the Applicant provide any evidence that the subject property's physical surroundings somehow caused a practical difficulty or particular hardship.

2. *The conditions upon which the petition for the variation is based are applicable, generally, to other property within the same zoning classification.*

The Applicant is requesting the variation so that it can make more money out of the subject property. Such a condition is applicable, generally, to other property within the C1-2 zoning classification as – generally speaking – all property owners of C1-2 zoned property would like to make more money out of the property (whether they are developing, renting or occupying the property).

3. *There purpose of the variation is based exclusively upon a desire to make more money out of the property.*

The ZONING BOARD OF APPEALS finds that the Applicant is requesting the variation solely to make more money out of the subject property. From looking at the plans, it is clear that the Applicant is maximizing development on every square inch of the subject property. The variation will allow the Applicant to further maximize development on the property. It is telling that the Applicant did not provide to the ZONING BOARD OF APPEALS what its expected return on investment would be *without* the variation, especially as the Applicant purchased the subject property for only \$300,000 and will invest only \$50-60,000 on the proposed rear porch.

4. *The alleged practical difficulty or particular hardship has been created by a person presently having an interest in the property.*

Again, the ZONING BOARD OF APPEALS declines to find the 60' lot depth a practical difficulty or particular hardship. The Applicant chose to design a building that maximized every buildable inch of the subject property and therefore required a variation to reduce the rear setback. Once the building permit was denied (due to the lack of seeking a variation), the Applicant chose to revise

the building permit so that no variation was required and (consequently) a building permit was issued. The Applicant then erected the building so that the only way to provide a rear porch structure for the building would be to encroach into the rear setback. Then, and only then, did the Applicant come before the ZONING BOARD OF APPEALS to request a variation. This is the very essence of a self-created hardship.

5. *There is insufficient evidence to show that granting the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.*

It is up to the Applicants to prove their case. The burden is not on the ZONING BOARD OF APPEALS. The only reference to this criterion was brief, conclusory testimony by Mr. Hanna. As stated above, the ZONING BOARD OF APPEALS has severe doubts about Mr. Hanna's credibility on this application.

6. *There is insufficient evidence to show that the variation will not impair an adequate supply of light and air to adjacent property. The variation will not substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety. There is insufficient evidence to show that the variation will not substantially diminish or impair property values within the neighborhood.*

Again, it is up to the Applicants to prove their case. The burden is not on the ZONING BOARD OF APPEALS. The only reference to adequate light and air – either at the hearing or in the Applicant's proposed Findings of Fact – is a brief conclusory averment by Mr. Hanna. Such conclusory averment does not meet the Applicant's burden. As the variation will not affect the required on-site parking, the variation will not substantially increase the congestion in the public streets. As the rear porch structure would only be built pursuant to a valid building permit, it would not increase the danger of fire or endanger the public safety. However, there is insufficient evidence for the ZONING BOARD OF APPEALS to find that the variation will not substantially diminish or impair property values in the neighborhood. For instance, the Applicant provided no market studies or other evidence (such as testimony from a realtor) to show that the proposed rear porch structure will not substantially diminish or impair property values of other properties in the neighborhood.

IV. CONCLUSION

For all of these reasons, the ZONING BOARD OF APPEALS finds that the Applicant has not proved its case by evidence, testimony and the entire record, including

the Applicant's proposed Findings of Fact, covering the specific criteria for a variation pursuant to Sections 17-13-1107-A, B and C of the Chicago Zoning Ordinance.

The ZONING BOARD OF APPEALS hereby denies the Applicant's application for a variation.

This is a final decision subject to review under the Illinois Administrative Review Law, 735 ILCS 5/3-101 *et seq.*

APPROVED AS TO SUBSTANCE

By: 
Timothy Knudsen, Chairman

I, Janine Klich-Jensen, staff person for the ZONING BOARD OF APPEALS, certify that I caused this to be placed in the mail on 1/19, 2021.


Janine Klich-Jensen

ZONING BOARD OF APPEALS, CITY OF CHICAGO, CITY HALL, ROOM 905

APPLICANT: Zeal Investments, LLC

CAL NO.: 333-20-Z

APPEARANCE FOR: Nicholas Ftikas

MINUTES OF MEETING:
October 16, 2020

APPEARANCE AGAINST: None

PREMISES AFFECTED: 6151 N. Milwaukee Avenue

NATURE OF REQUEST: Application for a variation to reduce the rear setback on floors containing dwelling units from the required 30' to 22.63' for a proposed second story addition with one dwelling unit to an existing one-story office building.

**ACTION OF BOARD-
VARIATION GRANTED**

THE VOTE

NOV 23 2020
CITY OF CHICAGO
ZONING BOARD OF APPEALS

TIMOTHY R. KNUDSEN
ZURICH ESPOSITO
BRIAN H. SANCHEZ
SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
X		
X		

WHEREAS, a public hearing was held on this application by the Zoning Board of Appeals at its regular meeting held on October 16, 2020 after due notice thereof as provided under Section 17-13-0107B and by publication in the Chicago Sun-Times on October 1, 2020; and

WHEREAS, the Zoning Board of Appeals, having reviewed the proposed finding of fact and having fully heard the testimony and arguments of the parties and being fully advised in the premises, hereby finds the following; the applicant shall be permitted to reduce the rear setback on floors containing dwelling units to 22.63' for a proposed second story addition with one dwelling unit to an existing one-story office building; an additional variation was granted to the subject property in Cal. No. 334-20-Z; the Board finds 1) strict compliance with the regulations and standards of this Zoning Ordinance would create practical difficulties or particular hardships for the subject property; 2) the requested variation is consistent with the stated purpose and intent of this Zoning Ordinance; 3) the property in question cannot yield a reasonable return if permitted to be used only in accordance with the standards of this Zoning Ordinance; 4) the practical difficulties or particular hardships are due to unique circumstances and are not generally applicable to other similarly situated property; and 5) the variation, if granted will not alter the essential character of the neighborhood, it is therefore

RESOLVED, that the Zoning Board of Appeals, by virtue of the authority conferred upon it, does hereby make a variation in the application of the district regulations of the zoning ordinance and that the foresaid variation request be and it hereby is granted subject to the following condition(s):

That all applicable ordinances of the City of Chicago shall be complied with before a permit is issued.

APPROVED AS TO SUBSTANCE


CHAIRMAN

USPS: 11/23/2020

ZONING BOARD OF APPEALS, CITY OF CHICAGO, CITY HALL, ROOM 905

APPLICANT: Zeal Investments, LLC

CAL NO.: 334-20-Z

APPEARANCE FOR: Nicholas Ftikas

MINUTES OF MEETING:
October 16, 2020

APPEARANCE AGAINST: None

PREMISES AFFECTED: 6151 N. Milwaukee Avenue

NATURE OF REQUEST: Application for a variation to reduce the minimum lot area from the required 2,500 square feet to 2,400 square feet for a proposed new second story addition to the existing one-story office building.

**ACTION OF BOARD-
VARIATION GRANTED**

THE VOTE

NOV 23 2020
CITY OF CHICAGO
ZONING BOARD OF APPEALS

TIMOTHY R. KNUDSEN
ZURICH ESPOSITO
BRIAN H. SANCHEZ
SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
X		
X		

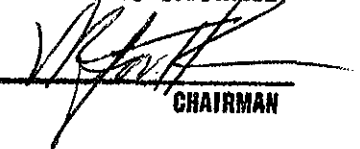
WHEREAS, a public hearing was held on this application by the Zoning Board of Appeals at its regular meeting held on October 16, 2020 after due notice thereof as provided under Section 17-13-0107B and by publication in the Chicago Sun-Times on October 1, 2020; and

WHEREAS, the Zoning Board of Appeals, having reviewed the proposed finding of fact and having fully heard the testimony and arguments of the parties and being fully advised in the premises, hereby finds the following; the applicant shall be permitted to reduce the minimum lot area to 2,400 square feet for a proposed new second story addition to the existing one-story office building; an additional variation was granted to the subject property in Cal. No. 333-20-Z; the Board finds 1) strict compliance with the regulations and standards of this Zoning Ordinance would create practical difficulties or particular hardships for the subject property; 2) the requested variation is consistent with the stated purpose and intent of this Zoning Ordinance; 3) the property in question cannot yield a reasonable return if permitted to be used only in accordance with the standards of this Zoning Ordinance; 4) the practical difficulties or particular hardships are due to unique circumstances and are not generally applicable to other similarly situated property; and 5) the variation, if granted will not alter the essential character of the neighborhood, it is therefore

RESOLVED, that the Zoning Board of Appeals, by virtue of the authority conferred upon it, does hereby make a variation in the application of the district regulations of the zoning ordinance and that the foresaid variation request be and it hereby is granted subject to the following condition(s):

That all applicable ordinances of the City of Chicago shall be complied with before a permit is issued.

APPROVED AS TO SUBSTANCE


CHAIRMAN

USPS: 11/23/20

ZONING BOARD OF APPEALS, CITY OF CHICAGO, CITY HALL, ROOM 905

APPLICANT: Lawndale Christian Legal Center Cal. No. 335-20-S

APPEARANCE FOR: Steve Friedland

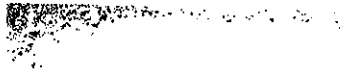
MINUTES OF MEETING:
October 16, 2020

APPEARANCE AGAINST: None

PREMISES AFFECTED: 1449 S. Keeler Avenue

NATURE OF REQUEST: Application for a special use to establish a transitional residence.

ACTION OF BOARD-
Continued to December 18, 2020



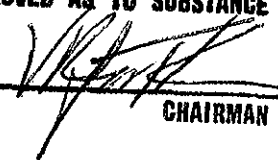
THE VOTE

NOV 23 2020
CITY OF CHICAGO
ZONING BOARD OF APPEALS

TIMOTHY R. KNUDSEN
ZURICH ESPOSITO
BRIAN H. SANCHEZ
SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
X		
X		

APPROVED AS TO SUBSTANCE


CHAIRMAN

ZONING BOARD OF APPEALS, CITY OF CHICAGO, CITY HALL, ROOM 905

APPLICANT: Lawndale Christian Legal Center Cal. No. 336-20-S

APPEARANCE FOR: Steve Friedland

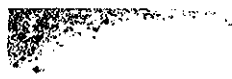
MINUTES OF MEETING:
October 16, 2020

APPEARANCE AGAINST: None

PREMISES AFFECTED: 1449 S. Keeler Avenue

NATURE OF REQUEST: Application for a variation to reduce the front setback from the required 15' to zero, the opposite street side north side setback from 5' to zero, rear setback from 37.67' to 10' the front property line to open parking from 20' to 7' for a proposed three-story addition to an existing two-story school building to be converted to a transitional residence and eleemosynary office with twenty-three on site accessory parking spaces.

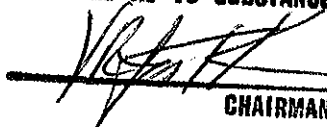
ACTION OF BOARD-
Continued to December 18, 2020


NOV 23 2020
CITY OF CHICAGO
ZONING BOARD OF APPEALS

THE VOTE

TIMOTHY R. KNUDSEN
ZURICH ESPOSITO
BRIAN H. SANCHEZ
SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
X		
X		

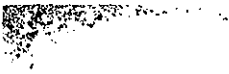
APPROVED AS TO SUBSTANCE

CHAIRMAN

ZONING BOARD OF APPEALS, CITY OF CHICAGO, CITY HALL, ROOM 905

APPLICANT: Lawndale Christian Legal Center Cal. No. 337-20-S
APPEARANCE FOR: Steve Friedland **MINUTES OF MEETING:**
October 16, 2020
APPEARANCE AGAINST: None
PREMISES AFFECTED: 1449 S. Keeler Avenue

NATURE OF REQUEST: Application for a variation to increase the allowable height from the maximum 38' to 39.45' for a proposed three-story addition to the existing two-story building to be converted to a transitional residence and eleemosynary office with twenty-three on site accessory parking spaces.

ACTION OF BOARD-
Continued to December 18, 2020


NOV 23 2020
CITY OF CHICAGO
ZONING BOARD OF APPEALS

THE VOTE

TIMOTHY R. KNUDSEN
ZURICH ESPOSITO
BRIAN H. SANCHEZ
SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
X		
X		

APPROVED AS TO SUBSTANCE



CHAIRMAN

APPLICANT: Lawndale Christian Legal Center Cal. No. 338-20-S

APPEARANCE FOR: Steve Friedland

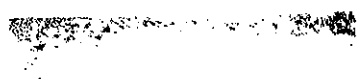
MINUTES OF MEETING:
October 16, 2020

APPEARANCE AGAINST: None

PREMISES AFFECTED: 1449 S. Keeler Avenue

NATURE OF REQUEST: Application for a variation to reduce the rear yard open space from the required 1,836.46 square feet to 807 square feet for a proposed three-story addition to the existing two-story school building to be converted to a transitional residence and eleemosynary office with twenty-three on site accessory parking spaces.

ACTION OF BOARD-
Continued to December 18, 2020



THE VOTE

NOV 23 2020
CITY OF CHICAGO
ZONING BOARD OF APPEALS

TIMOTHY R. KNUDSEN
ZURICH ESPOSITO
BRIAN H. SANCHEZ
SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
X		
X		

APPROVED AS TO SUBSTANCE

CHAIRMAN

ZONING BOARD OF APPEALS, CITY OF CHICAGO, CITY HALL, ROOM 905

APPLICANT: Chick-fil-A, Inc. Cal. No. 339-20-S

APPEARANCE FOR: Joseph Gattuso MINUTES OF MEETING:

October 16, 2020

APPEARANCE AGAINST: None

PREMISES AFFECTED: 4733 W. 76th Street

NATURE OF REQUEST: Application for a special use to expand an existing drive-through facility to serve a fast food restaurant.

ACTION OF BOARD- APPLICATION APPROVED

THE VOTE

NOV 23 2020 CITY OF CHICAGO ZONING BOARD OF APPEALS

TIMOTHY R. KNUDSEN ZURICH ESPOSITO BRIAN H. SANCHEZ SAM TOIA

Table with 3 columns: AFFIRMATIVE, NEGATIVE, ABSENT. Rows show 'X' marks for affirmative votes and a 'RECUSED' row.

THE RESOLUTION:

WHEREAS, a public hearing was held on this application by the Zoning Board of Appeals at its regular meeting held on October 16, 2020 after due notice thereof as provided under Section 17-13-0107B and by publication in the Chicago Sun-Times on October 1, 2020; and

WHEREAS, the Zoning Board of Appeals, having reviewed the proposed finding of fact and having fully heard the testimony and arguments of the parties and being fully advised in the premises, hereby finds the following; the applicant shall be permitted to expand an existing drive-through facility to serve a fast food restaurant; expert testimony was offered that the use would not have a negative impact on the surrounding community and is in character with the neighborhood; further expert testimony was offered that the use complies with all of the criteria as set forth by the code for the granting of a special use at the subject site; the Board finds the use complies with all applicable standards of this Zoning Ordinance; is in the interest of the public convenience and will not have a significant adverse impact on the general welfare of neighborhood or community; is compatible with the character of the surrounding area in terms of site planning and building scale and project design; is compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise, and traffic generation; and is designed to promote pedestrian safety and comfort; it is therefore

RESOLVED, that the aforesaid special use request be and it hereby is approved and the Zoning Administrator is authorized to permit said special use subject to the following condition(s): provided the special use is issued solely to the applicant, Chick-fil-A, Inc., and the development is consistent with the design and layout of the plans and drawings dated June 9, 2020, prepared by HR Green.

That all applicable ordinances of the City of Chicago shall be complied with before a permit is issued.

APPROVED AS TO SUBSTANCE [Signature] CHAIRMAN

USPS: 11/23/2020

APPLICANT:

Self-Help Federal Credit Union

Cal. No. 340-20-S

APPEARANCE FOR:

Graham Grady / Sylvia Michas

MINUTES OF MEETING:

October 16, 2020

APPEARANCE AGAINST:

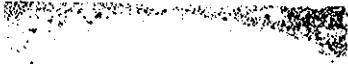
None

PREMISES AFFECTED:

631-59 E. 87th Street / 8700-10 S. Langley Avenue

NATURE OF REQUEST: Application for a special use to establish a two-lane drive through facility with automated teller machine to serve the existing bank located at 645 E. 87th Street.

**ACTION OF BOARD-
APPLICATION APPROVED**



THE VOTE

NOV 23 2020
CITY OF CHICAGO
ZONING BOARD OF APPEALS

TIMOTHY R. KNUDSEN
ZURICH ESPOSITO
BRIAN H. SANCHEZ
SAM TOIA

AFFIRMATIVE	NEGATIVE	ADSENT
X		
X		
X		
X		

THE RESOLUTION:

WHEREAS, a public hearing was held on this application by the Zoning Board of Appeals at its regular meeting held on October 16, 2020 after due notice thereof as provided under Section 17-13-0107B and by publication in the Chicago Sun-times on October 1, 2020; and

WHEREAS, the Zoning Board of Appeals, having reviewed the proposed finding of fact and having fully heard the testimony and arguments of the parties and being fully advised in the premises, hereby finds the following; the applicant shall be permitted to establish a two-lane drive through facility with automated teller machine to serve the existing bank located at 645 E. 87th Street; expert testimony was offered that the use would not have a negative impact on the surrounding community and is in character with the neighborhood; further expert testimony was offered that the use complies with all of the criteria as set forth by the code for the granting of a special use at the subject site; the Board finds the use complies with all applicable standards of this Zoning Ordinance; is in the interest of the public convenience and will not have a significant adverse impact on the general welfare of neighborhood or community; is compatible with the character of the surrounding area in terms of site planning and building scale and project design; is compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise, and traffic generation; and is designed to promote pedestrian safety and comfort; it is therefore

RESOLVED, that the aforesaid special use request be and it hereby is approved and the Zoning Administrator is authorized to permit said special use subject to the following condition(s): provided the special use is issued solely to the applicant, Self-Help Federal Credit Union, and the development is consistent with the design and layout of the site and landscape plans and drawings all dated July 6, 2020 except Zoning Site Plan, dated October 9, 2020, prepared by Brook Architecture, Inc.

That all applicable ordinances of the City of Chicago shall be complied with before a permit is issued.

APPROVED AS TO SUBSTANCE

CHAIRMAN

USPS: 11/23/20

ZONING BOARD OF APPEALS, CITY OF CHICAGO, CITY HALL, ROOM 905

APPLICANT: Vanderesa Enterprises, LLC

CAL NO.: 341-20-Z

APPEARANCE FOR: Mark Kupiec

MINUTES OF MEETING:

October 16, 2020

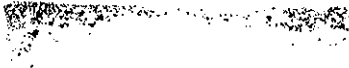
APPEARANCE AGAINST: None

PREMISES AFFECTED: 4337 S. Langley Avenue

NATURE OF REQUEST: Application for a variation to reduce the north and south yard side setbacks from 2' each to zero each, combined side yard setback from 4.08' to zero for a proposed two story, single family residence with detached two car garage.

ACTION OF BOARD- VARIATION GRANTED

THE VOTE



NOV 23 2020

CITY OF CHICAGO ZONING BOARD OF APPEALS

TIMOTHY R. KNUDSEN
ZURICH ESPOSITO
BRIAN H. SANCHEZ
SAM TOIA

Table with 3 columns: AFFIRMATIVE, NEGATIVE, ABSENT. Rows show 'X' marks in the AFFIRMATIVE column for all four names.

WHEREAS, a public hearing was held on this application by the Zoning Board of Appeals at its regular meeting held October 16, 2020 after due notice thereof as provided under Section 17-13-0107B and by publication in the Chicago Sun-Times on October 1, 2020; and

WHEREAS, the Zoning Board of Appeals, having reviewed the proposed finding of fact and having fully heard the testimony and arguments of the parties and being fully advised in the premises, hereby finds the following; the applicant shall be permitted to reduce the north and south yard side setbacks to zero each, combined side yard setback to zero for a proposed two story, single family residence with detached two car garage; the Board finds 1) strict compliance with the regulations and standards of this Zoning Ordinance would create practical difficulties or particular hardships for the subject property; 2) the requested variation is consistent with the stated purpose and intent of this Zoning Ordinance; 3) the property in question cannot yield a reasonable return if permitted to be used only in accordance with the standards of this Zoning Ordinance; 4) the practical difficulties or particular hardships are due to unique circumstances and are not generally applicable to other similarly situated property; and 5) the variation, if granted will not alter the essential character of the neighborhood, it is therefore

RESOLVED, that the Zoning Board of Appeals, by virtue of the authority conferred upon it, does hereby make a variation in the application of the district regulations of the zoning ordinance and that the foresaid variation request be and it hereby is granted subject to the following condition(s):

That all applicable ordinances of the City of Chicago shall be complied with before a permit is issued.

APPROVED AS TO SUBSTANCE

Handwritten signature and the word CHAIRMAN

Handwritten note: USPS: 11/23/20

APPLICANT: JL Development, LLC

CAL NO.: 342-20-Z

APPEARANCE FOR: Mark Kupiec

MINUTES OF MEETING:
October 16, 2020

APPEARANCE AGAINST: None

PREMISES AFFECTED: 719 N. Elizabeth Street

NATURE OF REQUEST: Application for a variation to reduce the rear setback from the required 30' to 2', south side setback from 3.84' to zero, north side from 3.84' zero, combined side setback from 9.6' to zero for two proposed 10' high rolling gates in the rear of a proposed four-story, five dwelling unit building with five parking spaces.

**ACTION OF BOARD-
VARIATION GRANTED**

THE VOTE

NOV 23 2020
CITY OF CHICAGO
ZONING BOARD OF APPEALS

TIMOTHY R. KNUDSEN
ZURICH ESPOSITO
BRIAN H. SANCHEZ
SAM TOIA

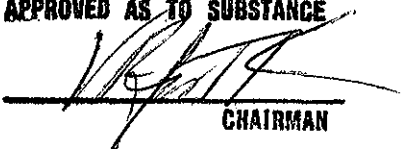
AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
X		
X		

WHEREAS, a public hearing was held on this application by the Zoning Board of Appeals at its regular meeting held October 16, 2020 after due notice thereof as provided under Section 17-13-0107B and by publication in the Chicago Sun-Times on October 1, 2020; and

WHEREAS, the Zoning Board of Appeals, having reviewed the proposed finding of fact and having fully heard the testimony and arguments of the parties and being fully advised in the premises, hereby finds the following; the applicant shall be permitted to reduce the rear setback to 2', south side setback to zero, north side to zero, combined side setback to zero for two proposed 10' high rolling gates in the rear of a proposed four-story, five dwelling unit building with five parking spaces; the Board finds 1) strict compliance with the regulations and standards of this Zoning Ordinance would create practical difficulties or particular hardships for the subject property; 2) the requested variation is consistent with the stated purpose and intent of this Zoning Ordinance; 3) the property in question cannot yield a reasonable return if permitted to be used only in accordance with the standards of this Zoning Ordinance; 4) the practical difficulties or particular hardships are due to unique circumstances and are not generally applicable to other similarly situated property; and 5) the variation, if granted will not alter the essential character of the neighborhood, it is therefore

RESOLVED, that the Zoning Board of Appeals, by virtue of the authority conferred upon it, does hereby make a variation in the application of the district regulations of the zoning ordinance and that the foresaid variation request be and it hereby is granted subject to the following condition(s):

That all applicable ordinances of the City of Chicago shall be complied with before a permit is issued.

APPROVED AS TO SUBSTANCE

CHAIRMAN

USPS: 11/23/20

ZONING BOARD OF APPEALS, CITY OF CHICAGO, CITY HALL, ROOM 905

APPLICANT: Mi Canchita Indoor Field, LLC
APPEARANCE FOR: Mark Kupiec
APPEARANCE AGAINST: None
PREMISES AFFECTED: 7625 S. Kedzie Avenue

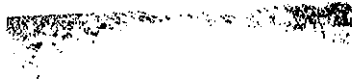
CAL NO.: 343-20-S

MINUTES OF MEETING:
October 16, 2020

NATURE OF REQUEST: Application for a special use to establish a sports and recreation, participation use within an existing one-story building with new on-site parking areas.

ACTION OF BOARD-
Continued to December 18, 2020

THE VOTE




NOV 23 2020

CITY OF CHICAGO
ZONING BOARD OF APPEALS

TIMOTHY R. KNUDSEN
ZURICH ESPOSITO
BRIAN H. SANCHEZ
SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
X		
X		

APPROVED AS TO SUBSTANCE



CHAIRMAN

ZONING BOARD OF APPEALS, CITY OF CHICAGO, CITY HALL, ROOM 905

APPLICANT: Mi Canchita Indoor Field, LLC

CAL NO.: 344-20-Z

APPEARANCE FOR: Mark Kupiec

MINUTES OF MEETING:
October 16, 2020

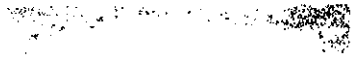
APPEARANCE AGAINST: None

PREMISES AFFECTED: 7625 S. Kedzie Avenue

NATURE OF REQUEST: Application for a variation to eliminate the one required loading berth for a proposed Sports and Recreation participant use in an existing one-story building.

ACTION OF BOARD-
Continued to December 18, 2020

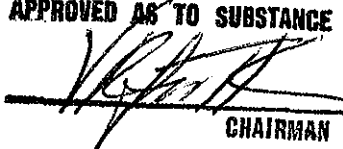
THE VOTE



NOV 23 2020
CITY OF CHICAGO
ZONING BOARD OF APPEALS

TIMOTHY R. KNUDSEN
ZURICH ESPOSITO
BRIAN H. SANCHEZ
SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
X		
X		

APPROVED AS TO SUBSTANCE

CHAIRMAN

**ZONING BOARD OF APPEALS
CITY OF CHICAGO**

City Hall Room 905
121 North LaSalle Street
Chicago, Illinois 60602
TEL: (312) 744-3888



JAN 19 2021

CITY OF CHICAGO
ZONING BOARD OF APPEALS

AG Bells II LLC

APPLICANT

345-20-S

CALENDAR NUMBER

5308 W. Belmont Avenue

PREMISES AFFECTED

October 16, 2020

HEARING DATE

ACTION OF BOARD

THE VOTE

The application is approved subject to the conditions set forth in this decision.

Timothy Knudsen,
Chairman
Zurich Esposito
Brian Sanchez
Jolene Saul
Sam Toja

AFFIRMATIVE NEGATIVE ABSENT

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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**FINDINGS OF THE ZONING BOARD OF APPEALS
IN THE MATTER OF THE SPECIAL USE APPLICATION FOR 5308 W.
BELMONT AVENUE BY AG BELLS II LLC.**

I. BACKGROUND

AG Bells II LLC (the "Applicant") submitted a special use application for 5308 W. Belmont Avenue (the "subject property"). The subject property is currently zoned C1-1 and is improved with a two-story building (the "existing building"). The Applicant proposes to demolish the existing building and construct a new one-story restaurant building with a drive-through (the "proposed restaurant"). To permit construction of the proposed restaurant, the Applicant sought a special use to establish a drive-through facility¹ at the subject property (the "special use"). In accordance with Section 17-13-0903 of the Chicago Zoning Ordinance, the Zoning Administrator of the City's Department of Planning and Development ("Zoning Administrator") recommended approval of the special use provided that: (1) the special use was issued solely to the Applicant; and (2) the development was consistent with the design and layout of the plans and drawings dated June 10, 2020, prepared by MRV Architects, Inc.

II. PUBLIC HEARING

A. The Hearing

¹ Section 17-3-0207(Z) of the Chicago Zoning Ordinance.

The ZONING BOARD OF APPEALS held a remote public hearing² on the Applicant's special use application at its regular meeting on October 16, 2020, after due notice thereof as provided under Sections 17-13-0107-A(9) and 17-13-0107-B of the Chicago Zoning Ordinance and by publication in the *Chicago Tribune*. In accordance with the ZONING BOARD OF APPEALS' Rules of Procedure (eff. June 26, 2020), the Applicant had submitted its proposed Findings of Facts. The Applicant's president Mr. Neil Shah and the Applicant's attorneys Mr. Mark Kupiec and Ms. Agnes Plecka were present. Also present on behalf of the Applicant were the Applicant's architect Mr. Mario Valentini and its MAI-certified real estate appraiser Mr. Joseph Ryan. The statements and testimony given during the hearing were given in accordance with the ZONING BOARD OF APPEALS' Rules of Procedure and its Emergency Rules (eff. September 9, 2020)³.

The Applicant's attorney Mr. Mark Kupiec provided a brief overview of the Applicant's application.

The Applicant's president Mr. Neil Shah offered testimony in support of the Applicant's application.

The Applicant's architect Mr. Mario Valentini offered testimony in support of the Applicant's application.

In response to questions from the Zoning Board of Appeals, Mr. Valentini provided clarifying testimony.

The Applicant's MAI-certified real estate appraiser Mr. Joseph Ryan offered testimony in support of the Applicant's application.

In response to questions from the ZONING BOARD OF APPEALS, Mr. Shah offered further testimony.

In response to questions from the ZONING BOARD OF APPEALS, Mr. Kupiec made further statements.

B. Criteria for a Special Use

Pursuant to Section 17-13-0905-A of the Chicago Zoning Ordinance, no special use application may be approved unless the ZONING BOARD OF APPEALS finds that the proposed use in its proposed location meets all of the following criteria: (1) it complies with all applicable standards of the Chicago Zoning Ordinance; (2) it is in the interest of the public convenience and will not have a significant adverse impact on the general welfare of the neighborhood or community; (3) it is compatible with the character of the surrounding area in terms of site planning and building scale and project design; (4) it is

² In accordance with Section 7(e) of the Open Meetings Act, 5 ILCS 120/1 *et seq.*

³ Such Emergency Rules were issued by the Chairman of the ZONING BOARD OF APPEALS in accordance with his emergency rule-making powers set forth in the Rules of Procedure.

compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise and traffic generation; and (5) it is designed to promote pedestrian safety and comfort.

III. FINDINGS OF FACT

After careful consideration of the evidence, testimony and the entire record, including the Applicant's proposed Findings of Fact, the ZONING BOARD OF APPEALS hereby makes the following findings with reference to the Applicant's application for a special use pursuant to Section 17-13-0905-A of the Chicago Zoning Ordinance:

1. *The proposed special use complies with all applicable standards of the Chicago Zoning Ordinance.*

The subject property is located in a C1-1 zoning district. Drive-through facilities are a special use in a C1 zoning district.⁴ The Applicant is seeking no other relief from the Chicago Zoning Ordinance. It is only the special use that brings the Applicant before the ZONING BOARD OF APPEALS. Since the ZONING BOARD OF APPEALS has decided to grant the special use to the Applicant, the Applicant's proposed special use therefore complies with all applicable standards of the Chicago Zoning Ordinance.

2. *The proposed special use is in the interest of the public convenience and will not have a significant adverse impact on the general welfare of the neighborhood or community.*

As Mr. Ryan stated in his report, there is demonstrated demand for restaurants with drive-through facilities in the Chicago area. This demand is particularly relevant in light of the ongoing COVID-19 public health emergency, in which restaurants are unable to offer dine-in options. Adding more restaurants with drive-through facilities provides the surrounding community with relatively safe dining options during times such as these where contact with others should be limited as much as possible for public safety reasons. Further, it is apparent from the plans that the special use will not have a significant adverse impact on the general welfare of the neighborhood as the drive-through has entrances situated both on Lockwood Avenue as well as Belmont Avenue⁵. The stacking plan will accommodate eight vehicles throughout the length of the drive-through and, as such, vehicles entering the drive-through will not interfere with traffic along Belmont Avenue. The Lockwood Avenue entrance will provide a good

⁴ Pursuant to Sections 17-3-0207(Z) of the Chicago Zoning Ordinance.

⁵ Though there is a Belmont Avenue entrance into the parking lot of the subject property, it is apparent from the configuration that traffic intended for the drive-through is likely to come from the Lockwood Avenue entrance, as there is less potential vehicular interference from dine-in patrons.

alternative for entrance into the drive-through. In either case, entering traffic from Belmont can be alleviated by the Lockwood entrance and the residential nature of Lockwood Avenue is not likely to be impacted due to the presence of the Belmont Avenue entrance. Additionally, deciduous shrubs, shade trees and a wood fence along the north boundary of the subject property will ensure that the headlights of cars entering the drive-through will not disturb the residential properties to the north on Lockwood Avenue.

3. *The proposed special use is compatible with the character of the surrounding area in terms of site planning and building scale and project design.*

The C1 zoning district is specifically designed for more auto-oriented commercial uses than the B1 zoning district.⁶ Thus, this special use is well-suited for the surrounding area. The special use diminishes the proposed restaurant's need to serve many dine-in patrons. As such, the proposed restaurant can be built smaller, taking up a modest 2,059 square feet of the subject property's 20,600 square feet. Additionally, the special use is compatible with other drive-through facilities nearby. As can be seen from Mr. Ryan's report, there is a Popeye's restaurant with drive-through facilities approximately a half a block east of the subject property.

4. *The proposed special use is compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise and traffic generation.*

The special use will be compatible with the surrounding area in terms of hours of operation. To limit the potential disturbance residential properties to the north of the subject property, approval of this special use application is conditioned upon the drive-through ceasing operations at 12:00 AM Sunday through Thursday⁷ and at 2:00 AM on Friday and Saturday.⁸ The wood fence along the north of the subject property, along with the volume control of the drive-through speaker, will prevent disturbances to those residential properties. The special use will be particularly compatible with the surrounding area in terms of traffic generation as the stacking plan is configured to accommodate up to eight vehicles. Further, the availability of two entrances into the drive-through will ensure that the residential

⁶ Section 17-3-0105-B of the Chicago Zoning Ordinance.

⁷ To be clear, with respect to Sunday and Thursday evenings, this means that the drive-through shall cease at 12 AM Monday (i.e., the last use will be Sunday evening at 11:59:59 PM) and 12 AM Friday (i.e., the last use will be Thursday evening at 11:59:59 PM).

⁸ To be clear, with respect to Friday and Saturday evenings, this means that the drive-through shall cease at 2:00 AM Saturday (i.e., the last use for Friday evening shall be at 1:59:59 AM Saturday) and 2:00 AM Sunday (i.e., the last use for Saturday evening shall be at 1:59:59 AM Sunday).

nature of Lockwood Avenue will not be impacted and that there will be no added congestion to Belmont Avenue due to the drive-through.

5. *The proposed special use is designed to promote pedestrian safety and comfort.*

The configuration of the special use is particularly suitable for pedestrian traffic and comfort. The entrance along Lockwood Avenue will alleviate the ingress and egress of vehicular traffic for the Belmont Avenue entrance. This will decrease the number of vehicles traveling in close proximity to restaurant patrons that are walking to and from their vehicles in the parking lot. Moreover, the pickup window of the proposed restaurant will be positioned far from the sidewalk along Belmont Avenue, providing a good vantage point for vehicles exiting the drive-through. Similarly, there will be significant landscaping between the pickup window and Belmont Avenue's driveway, further enhancing exiting drivers' views of sidewalk pedestrians. The approval of this proposed special use is also conditioned upon a prohibition on alcohol sales through the drive-through, which will limit instances of drunk driving in the nearby area.

IV. CONCLUSION

For all of these reasons, the ZONING BOARD OF APPEALS finds that the Applicant has proved its case by evidence, testimony and the entire record, including the Applicant's proposed Findings of Fact, covering the specific criteria for a special use pursuant to Section 17-13-0905-A of Chicago Zoning Ordinance.

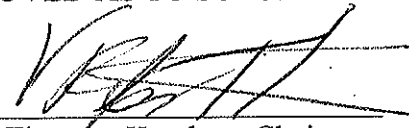
The ZONING BOARD OF APPEALS hereby approves the Applicant's application for a special use, and pursuant to the authority granted to the ZONING BOARD OF APPEALS by Section 17-13-0906 of the Chicago Zoning Ordinance, the Zoning Administrator is authorized to permit said special use subject to the following conditions:

1. The special use shall be issued solely to the Applicant;
2. The special use shall be developed consistently with the design and layout of the plans and drawings dated June 10, 2020, prepared by MRV Architects, Inc.;
3. The Applicant shall cease operation of the special use as follows:
 - a. Monday evening: 12:00 AM Tuesday;
 - b. Tuesday evening: 12:00 AM Wednesday;
 - c. Wednesday evening: 12:00 AM Thursday;
 - d. Thursday evening: 12:00 AM Friday;
 - e. Friday evening: 2:00 AM Saturday;
 - f. Saturday evening: 2:00 AM Sunday;
 - g. Sunday evening: 12:00 AM Monday; and
4. The Applicant shall sell no liquor through the drive-through facility.

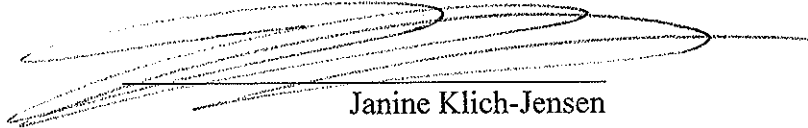
This is a final decision subject to review under the Illinois Administrative Review
Law, 735 ILCS 5/3-101 *et seq.*

APPROVED AS TO SUBSTANCE

By:


Timothy Knudsen, Chairman

I, Janine Klich-Jensen, staff person for the ZONING BOARD OF APPEALS, certify
that I caused this to be placed in the USPS mail at 121 North LaSalle Street, Chicago, IL
on 1/19, 2021.


Janine Klich-Jensen

ZONING BOARD OF APPEALS, CITY OF CHICAGO, CITY HALL, ROOM 905

APPLICANT: Beautyhood Limited

Cal. No. 346-20-S

APPEARANCE FOR: Lawrence Lusk

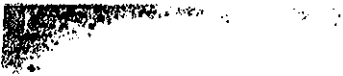
MINUTES OF MEETING:
October 16, 2020

APPEARANCE AGAINST: None

PREMISES AFFECTED: 1518 N. Ashland Avenue

NATURE OF REQUEST: Application for a special use to establish a hair and nail salon.

**ACTION OF BOARD-
APPLICATION APPROVED**



THE VOTE

NOV 23 2020
CITY OF CHICAGO
ZONING BOARD OF APPEALS

TIMOTHY R. KNUDSEN
ZURICH ESPOSITO
BRIAN H. SANCHEZ
SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
X		
X		

THE RESOLUTION:

WHEREAS, a public hearing was held on this application by the Zoning Board of Appeals at its regular meeting held October 16, 2020 after due notice thereof as provided under Section 17-13-0107B and by publication in the Chicago Sun-Times on October 1, 2020; and

WHEREAS, the Zoning Board of Appeals, having reviewed the proposed finding of fact and having fully heard the testimony and arguments of the parties and being fully advised in the premises, hereby finds the following; the applicant shall be permitted to establish a hair and nail salon; an additional special use was granted to the subject property in Cal. No. 347-20-S; expert testimony was offered that the use would not have a negative impact on the surrounding community and is in character with the neighborhood; further expert testimony was offered that the use complies with all of the criteria as set forth by the code for the granting of a special use at the subject site; the Board finds the use complies with all applicable standards of this Zoning Ordinance; is in the interest of the public convenience and will not have a significant adverse impact on the general welfare of neighborhood or community; is compatible with the character of the surrounding area in terms of site planning and building scale and project design; is compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise, and traffic generation; and is designed to promote pedestrian safety and comfort; it is therefore

RESOLVED, that the aforesaid special use request be and it hereby is approved and the Zoning Administrator is authorized to permit said special use subject to the following condition(s): provided the special use is issued solely to the applicant, Beautyhood Limited.

That all applicable ordinances of the City of Chicago shall be complied with before a permit is issued.

APPROVED AS TO SUBSTANCE

CHAIRMAN

USPS: 11/23/20

ZONING BOARD OF APPEALS, CITY OF CHICAGO, CITY HALL, ROOM 905

APPLICANT: Beautyhood Limited

Cal. No. 347-20-S

APPEARANCE FOR: Lawrence Lusk

MINUTES OF MEETING:
October 16, 2020

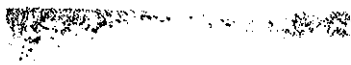
APPEARANCE AGAINST: None

PREMISES AFFECTED: 1518 N. Ashland Avenue

NATURE OF REQUEST: Application for a special use to establish a body art service (permanent make up).

**ACTION OF BOARD-
APPLICATION APPROVED**

THE VOTE



NOV 23 2020
CITY OF CHICAGO
ZONING BOARD OF APPEALS

TIMOTHY R. KNUDSEN
ZURICH ESPOSITO
BRIAN H. SANCHEZ
SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
X		
X		

THE RESOLUTION:

WHEREAS, a public hearing was held on this application by the Zoning Board of Appeals at its regular meeting held on October 16, 2020 after due notice thereof as provided under Section 17-13-0107B and by publication in the Chicago Sun-Times on October 1, 2020; and

WHEREAS, the Zoning Board of Appeals, having reviewed the proposed finding of fact and having fully heard the testimony and arguments of the parties and being fully advised in the premises, hereby finds the following; the applicant shall be permitted to establish a body art service (permanent make up); an additional special use was granted to the subject property in Cal. No. 346-20-S; expert testimony was offered that the use would not have a negative impact on the surrounding community and is in character with the neighborhood; further expert testimony was offered that the use complies with all of the criteria as set forth by the code for the granting of a special use at the subject site; the Board finds the use complies with all applicable standards of this Zoning Ordinance; is in the interest of the public convenience and will not have a significant adverse impact on the general welfare of neighborhood or community; is compatible with the character of the surrounding area in terms of site planning and building scale and project design; is compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise, and traffic generation; and is designed to promote pedestrian safety and comfort; it is therefore

RESOLVED, that the aforesaid special use request be and it hereby is approved and the Zoning Administrator is authorized to permit said special use subject to the following condition(s): provided the special use is issued solely to the applicant, Beautyhood Limited.

That all applicable ordinances of the City of Chicago shall be complied with before a permit is issued.

APPROVED AS TO SUBSTANCE

CHAIRMAN

USPS: 11/23/20

**ZONING BOARD OF APPEALS
CITY OF CHICAGO**

City Hall Room 905
121 North LaSalle Street
Chicago, Illinois 60602
TEL: (312) 744-3888



JAN 19 2021

CITY OF CHICAGO
ZONING BOARD OF APPEALS

Trust PM1206

APPELLANT

348-20-Z & 349-20-Z

CALENDAR NUMBERS

1206 W. Wellington Avenue

PREMISES AFFECTED

October 16, 2020

HEARING DATE

ACTION OF BOARD

THE VOTE

The applications for the variations are denied.

	AFFIRMATIVE	NEGATIVE	ABSENT
Timmy Knudsen, Chairman	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Zurich Esposito	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Brian Sanchez	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jolene Saul	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Sam Toia	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**FINDINGS OF THE ZONING BOARD OF APPEALS
IN THE MATTER OF THE VARIATION APPLICATIONS FOR 1206 W.
WELLINGTON AVENUE BY TRUST PM1206.**

I. BACKGROUND

Trust PM1206 (the "Applicant") submitted two applications for variations for 1206 West Wellington Avenue (the "subject property"). The subject property is currently zoned RT-4 and is improved with a three-story, single-family residence (the "home") and a detached four-car garage at the rear of the subject property (the "garage"). The garage is improved with a rooftop deck (the "garage rooftop deck"). The garage rooftop deck is accessed via a set of stairs from the home's rear deck (the "current access stair"). Both the current access stair and the home's rear deck are legal nonconforming conditions.¹ The Applicant's trustees proposed to demolish the current access stair and the home's rear deck so that it could construct an enclosed connector that would allow the basement of the home to be directly connected with the garage (the "proposed connector"). The Applicant's trustees further proposed to replace the home's rear deck with a much larger raised rear terrace (the "proposed raised rear terrace") and to replace the current access stair with stairs on top of the proposed connector that would allow access from the terrace to the garage rooftop deck (the "proposed access stair"). To allow this construction, the Applicant sought variations to: (1) reduce the rear setback from the required 34.72' to

¹ In that they were legally permitted at the time they were constructed but do not comply with Section 17-17-0309 of the Chicago Zoning Ordinance.

2.12', west side setback from 3.0' to 0.0' (east side setback to be 2.94') and combined side setback from 7.5' to 2.94'; and (2) relocate the minimum required rear yard open space of 302 square feet to the garage rooftop deck.

II. PUBLIC HEARING

A. The Hearing

The ZONING BOARD OF APPEALS held a remote public hearing² on the Applicant's variation applications at its regular meeting on October 16, 2020, after due notice thereof as provided under Sections 17-13-0107-A(9) and 17-13-0107-B of the Chicago Zoning Ordinance and by publication in the *Chicago Tribune*. In accordance with the ZONING BOARD OF APPEALS' Rules of Procedure (eff. June 26, 2020), the Applicant had submitted its proposed Findings of Facts. The Applicant's trustees Mr. Jonathon Harris and Ms. Jodi Harris (together, the "Harris") were present, as was the Applicant's attorney Mr. Thomas Moore. The Applicant's architect Mr. Mike Ryan was also present. Appearing in opposition to the applications were Mr. Sam Samatas and a representative of 32nd ward alderman Scott Waguespack (the "Alderman") Mr. Paul Sajovec. The statements, documentary evidence and testimony given during the public hearing were given in accordance with the ZONING BOARD OF APPEALS' Emergency Rules and Rules of Procedure and its Emergency Rules (eff. September 9, 2020).³

The Alderman's representative Mr. Paul Sajovec offered testimony in opposition to the application. In response to a question from the Zoning Board of Appeals, Mr. Sajovec offered clarification as to his testimony.

The Applicant offered the testimony of its trustee Ms. Jodi Harris in support of the applications.

The Applicant offered the testimony of its trustee Mr. Jonathon Harris in support of the applications.

Ms. Harris then offered further testimony.

The Applicant offered the testimony of their architect Mr. Mike Ryan in support of the applications.

Mr. Sam Samatas, of 1434 West Barry, offered testimony in opposition to the applications.

² In accordance with Section 7(e) of the Open Meetings Act, 5 ILCS 120/1 *et seq.*

³ Such Emergency Rules were issued by the Chairman of the ZONING BOARD OF APPEALS in accordance with his emergency rule-making powers set forth in the Rules of Procedure.

In response to questions from the ZONING BOARD OF APPEALS, Mr. Samatas offered further testimony.

In response to questions from Mr. Moore, Mr. Samatas provided further testimony.

In response to Mr. Samatas' testimony, Ms. Harris offered further testimony.

In response to questions from the ZONING BOARD OF APPEALS, Mr. Moore made further statements.

Mr. Harris then offered further testimony.

In response to questions from the ZONING BOARD OF APPEALS, Ms. Harris offered further testimony.

In response to questions from the ZONING BOARD OF APPEALS, Mr. Harris offered further testimony.

In response to questions from the ZONING BOARD OF APPEALS, Mr. Ryan offered further testimony.

B. Criteria for a Variation

Pursuant to Section 17-13-1107-A of the Chicago Zoning Ordinance, no variation application may be approved unless the ZONING BOARD OF APPEALS finds, based upon the evidence presented to it in each specific case, that: (1) strict compliance with the standards of the Chicago Zoning Ordinance would create practical difficulties or particular hardships; and (2) the requested variation is consistent with the stated purpose and intent of the Chicago Zoning Ordinance.

Pursuant to Section 17-13-1107-B of the Chicago Zoning Ordinance, in order to determine that practical difficulties or particular hardships exist, the ZONING BOARD OF APPEALS must find evidence of each of the following: (1) the property in question cannot yield a reasonable return if permitted to be used only in accordance with the standards of the Chicago Zoning Ordinance; (2) the practical difficulties or particular hardships are due to unique circumstances and are not generally applicable to other similarly situated property; and (3) the variation, if granted, will not alter the essential character of the neighborhood.

Pursuant to Section 17-13-1107-C of the Chicago Zoning Ordinance, in making its determination of whether practical difficulties or particular hardships exist, the ZONING BOARD OF APPEALS must take into consideration the extent to which evidence has been submitted substantiating the following facts: (1) the particular physical surroundings, shape or topographical condition of the specific property involved would result in a particular hardship upon the property owner as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out; (2) the conditions

upon which the petition for a variation is based would not be applicable, generally, to other property within the same zoning classification; (3) the purpose of the variation is not based exclusively upon a desire to make more money out of the property; (4) the alleged practical difficulty or particular hardship has not been created by any person presently having an interest in the property; (5) the granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located; and (6) the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.

III. FINDINGS OF FACT

After careful consideration of the evidence, testimony and the entire record, including the Applicant's proposed Findings of Fact, the ZONING BOARD OF APPEALS hereby makes the following findings with reference to the Applicant's applications for variations pursuant to Section 17-13-1107-A of the Chicago Zoning Ordinance:

1. *Strict compliance with the regulations and standards of the Chicago Zoning Ordinance would not create practical difficulties or particular hardships for the subject property.*

The ZONING BOARD OF APPEALS fails to see how strict compliance with the Chicago Zoning Ordinance would create practical difficulties or particular hardships for the subject property. In the Applicant's proposed Findings of Fact, the Applicant argued that the existing improvements on the subject property created a hardship for the subject property. In particular, Mr. Ryan averred that the nonconforming rear deck and the nonconforming current access stair made it impossible for the Applicant to strictly comply with the Chicago Zoning Ordinance.⁴

However, such an argument is directly contradicted by the Applicant's proposed program of development, which calls for the removal of both the nonconforming rear deck and the nonconforming current access stair. Thus, the Applicant does – in fact – have a blank canvas for a rear yard program of development. The ZONING BOARD OF APPEALS does not find, as Mr. Ryan does, a step down from the first floor to a Chicago Zoning Ordinance compliant raised rear terrace to be a practical difficulty or particular hardship (especially when such step would only need to resolve a minor elevation change of – at most – 10”⁵). Nor does it find that re-adjusting the spiral staircase to align with such Chicago Zoning Ordinance compliant raised rear terrace

⁴ The ZONING BOARD OF APPEALS does not consider the argument that the Chicago Zoning Ordinance assumes a vacant lot to be at all credible. To do so would require the ZONING BOARD OF APPEALS to accept the untenable proposition that any improved lot constitutes a hardship. If that were so, any structure, by virtue of its mere existence, would pose a particular hardship on the owner if it is not perfectly suited to the owner's every need.

⁵ At the hearing Mr. Moore stated that the rear deck was 8” above grade (or 4’ 8” in height). However, the plans show that the rear deck is set at 4’ 10”.

to be a practical difficulty or particular hardship (since again, it involves – at most – 10”). As the subject property is 37.5’ x 124’, it is slightly larger than an average City lot⁶ and therefore has the area to provide an access stair to the garage rooftop deck in compliance with the Chicago Zoning Ordinance (especially as the Applicant is removing the fireplace in the corner of the rear yard). Nor does the ZONING BOARD OF APPEALS see how the nonconforming rear deck and nonconforming current access stair create a practical difficulty or particular hardship that would necessitate the proposed connector.

Indeed, at the hearing, it was apparent that the driving force behind the request for the variations was not the existing nonconforming improvements on the subject property but rather the Harrises’ desire⁷ to avoid the danger of icy pavement on the short walk from the home to the detached garage. Because of this desire, they hired Mr. Ryan to design a program of rear yard development that created the proposed connector, the proposed raised rear terrace and the proposed access stair. However, while the inability to avoid icy pavement on the short walk from the home to the detached garage may be a personal problem for the Harrises, it is not a practical difficulty or particular hardship for the *subject property*.

2. *The requested variations are inconsistent with the stated purpose and intent of the Chicago Zoning Ordinance.*

Pursuant to Section 17-1-0513 of the Chicago Zoning Ordinance, the purpose and intent of the Chicago Zoning Ordinance is to “establis[h] clear and efficient development review and approval procedures.” One such procedure is the requirement that the ZONING BOARD OF APPEALS may not approve a variation unless it makes findings, based on the evidence submitted to it in each case, that strict compliance with the regulations and standards of the Chicago Zoning Ordinance would create practical difficulties or particular hardships for the subject property. Since the ZONING BOARD OF APPEALS declines to find that strict compliance with the regulations and standards of the Chicago Zoning Ordinance would create practical difficulties or particular hardships for the subject property, the requested variations are not consistent with the Chicago Zoning Ordinance’s clear and efficient development review and approval procedures.

After careful consideration of the evidence, testimony and the entire record, including the Applicant’s proposed Findings of Fact, the ZONING BOARD OF APPEALS hereby makes the following findings with reference to the Applicant’s

⁶ As correctly testified to by Mr. Sajovec, an average City lot is 25’ x 125’.

⁷ Such desire was due to the underlying medical conditions of Mr. Harris and the Harrises’ daughter.

applications for variations pursuant to Section 17-13-1107-B of the Chicago Zoning Ordinance:

1. *The Applicant failed to prove that the property in question cannot yield a reasonable return if permitted to be used only in accordance with the standards of the Chicago Zoning Ordinance.*

It is up to the Applicant to prove its case. The Applicant provided no credible evidence to demonstrate that the subject property would not be able to realize a reasonable rate of return if the variations were not granted.

The Applicant failed to demonstrate how a lack of the proposed connector, the proposed raised rear terrace and the proposed access stair would result in an inability to achieve a reasonable return on the subject property. The ZONING BOARD OF APPEALS does not find persuasive the Applicant's argument that the proposed connector is required in order to allow Mr. Harris and the Harris' daughter to safely travel between the garage and the building. There are numerous ways by which the subject property can remain useable to the Harris and their daughter without the variations. From the photographs and plans submitted by the Applicant, it is apparent that the distance between the garage and the building is a matter of a few feet. The Applicant can arrange for shoveling and salting of a path from the garage to the home. The Applicant can provide for a heated sidewalk. With respect the current rear yard stairs leading into the basement of the home, beyond shoveling, salting and/or heated concrete, the Applicant can also provide for an awning. Similarly, the ZONING BOARD OF APPEALS does not find persuasive that the Applicant's argument that the raised rear terrace and the proposed access stair are required for the subject property to remain usable. As noted above, the variations are not necessary in order for the Applicant to construct either a new raised rear terrace or a new access stair to the garage roof deck. Nor are the variations necessary for the Applicant to keep its current rear deck and current access stair.

2. *The practical difficulties or particular hardships are not due to unique circumstances and are generally applicable to other similarly situated property.*

The ZONING BOARD OF APPEALS has declined to find the existence of a practical difficulty or particular hardship. To the extent to which the Harris' desire to avoid the danger of icy pavement on the short walk between the home and the garage can be considered a practical difficulty or particular hardship for the subject property, such a desire is not due to unique circumstances as ice can and does accumulate on other improved residential property throughout the City.

3. *There is insufficient evidence to prove that variations, if granted, will not alter the essential character of the neighborhood.*

While Mr. Harris testified that there were connectors similar to the proposed connector in the neighborhood, the Applicant failed to provide any testimony or

other evidence (such as photographs) that these properties were also improved with anything like the proposed rear terrace or the proposed access stair. From the plans it is apparent that the proposed rear terrace is to span almost the entirety of the rear yard. This, combined with the proposed connector and proposed access stair, creates substantial massing in the rear yard. The Applicant failed to provide sufficient evidence that such substantial massing in the rear yard would not alter the essential character of the neighborhood.

After careful consideration of the evidence, testimony and the entire record, including the Applicant's proposed Findings of Fact, the ZONING BOARD OF APPEALS hereby makes the following findings with reference to the Applicant's applications for variations pursuant to Section 17-13-1107-C of the Chicago Zoning Ordinance:

1. *The particular physical surroundings, shape or topographical condition of the specific property involved would not result in a particular hardship upon the property owner as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.*

There is nothing regarding the particular physical surroundings or the shape of the subject property that results in particular hardship to the Applicant. The subject property is an improved residential property surrounded by other residential property. The subject property is regular in shape and is slightly larger than an average City lot. With respect to the topographical condition, there is – at most – a 10” difference between the current rear deck and a Chicago Zoning Ordinance compliant raised rear terrace. This 10” difference may be (as noted in Mr. Ryan's affidavit) accommodated via a step down from the current first floor exit as well as by adjusting the spiral staircase. Therefore, the inability to have the proposed rear terrace is, at most, a mere inconvenience to the Applicant. Similarly, the Applicant currently has access to the garage roof deck via the current access stair. In the event the Applicant demolished the current nonconforming access stair, the subject property can still support an access stair to the garage rooftop deck in compliance with the Chicago Zoning Ordinance. Thus, the inability to have the proposed access stair is, at most, a mere inconvenience to the Applicant.

Though Mr. Harris and the Harris' daughter have specific medical conditions that would make the proposed connector convenient, the ZONING BOARD OF APPEALS finds that this does not rise to the level of a particular hardship. Without the proposed connector, the Harris' could conceivably perform any number of acts that would make the walk from the garage to the home safer in icy weather, including shoveling and salting a path, installing a heated sidewalk and (with respect to the rear basement steps) installing an awning.

2. *There is insufficient evidence to show that conditions upon which the petitions for the variations are based would be applicable, generally, to other property within the same zoning classification.*

The Applicant's argument that the fact that the subject property is improved with a structure is a condition that is not generally applicable to other property within the same zoning classification is puzzling at best. The subject property is located in an RT-4 zoning district. The Applicant has put forth no evidence to support the extraordinary contention that property located in RT-4 zoning districts do not generally have structures built upon them. Even assuming that the argument is actually that subject property is improved with a *nonconforming* structure, such an argument fares no better as, again, the Applicant has put forth no evidence to support the equally extraordinary contention that property located RT-4 zoning districts do not generally have nonconforming structures built upon them.⁸ And indeed, the Applicant proposed to remove the nonconforming rear deck and nonconforming current stair access in order to construct the proposed connector, the proposed raised rear terrace and the proposed access stair.

The only other argument put forth as a reason for the proposed variations was the underlying medical conditions of Mr. Harris and the Harris' daughter. However, the Applicant has put forth no evidence that properties located in RT-4 zoning districts do not generally have residents that possess medical conditions that could benefit from a connector. In fact, as Mr. Samatas credibly testified, he has the same underlying medical condition (although, admittedly, he does not reside in a RT-4 zoning district). As such, there is not enough evidence to support the Applicant's argument.

3. *The variations are not based exclusively upon a desire to make more money out of the subject property.*

As the driving force behind the proposed variations was the Harris' desire to avoid icy pavement on the short walk between the home and the garage, the ZONING BOARD OF APPEALS finds that the variations are not based exclusively upon a desire to make more money out of the subject property but, at least partly, on a desire to prevent an exacerbation of physical injury.

4. *The alleged practical difficulty or particular hardship was created by a person presently having an interest in the property.*

The ZONING BOARD OF APPEALS has declined to find the existence of a practical difficulty or a particular hardship. As set forth above, the existing nonconforming improvements on the subject property (i.e., the nonconforming rear deck and nonconforming current access stair) do not create any practical

⁸ And indeed, such an argument is belied by Section 17-15-0102 of the Chicago Zoning Ordinance.

difficulties or particular hardships. In fact, as they are being removed, it is the proposed rear program of development chosen by the Harrises that necessitates the need for the variations. Thus, the alleged practical difficulty or particular hardship was created by people currently having an interest in the subject property. That such program of development was chosen due to the underlying medical conditions of Mr. Harris and the Harrises' daughter does not negate this fact, as the medical conditions of Mr. Harris and the Harrises' daughter are personal problems specific to the Harrises and not practical difficulties or particular hardships for the subject property.

5. *The Applicant has failed to show that the variations will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.*

The variations will allow the proposed connector, the proposed raised rear terrace and the proposed access stair. As Mr. Sajovec credibly testified, the proposed connector, the proposed raised rear terrace and the proposed access stair would result in reduced light and air to neighboring properties. As is apparent from the submitted photographs, the proposed connector, the proposed raised rear terrace and the proposed access stair would disrupt the continuous open-air space between the buildings and the garage that the subject property and the adjacent buildings currently contribute to and share. Though the ZONING BOARD OF APPEALS acknowledges the Harrises' testimony that the adjacent neighbors were in support of the variations, the ZONING BOARD OF APPEALS still finds that such a disruption to the continuous space would be injurious to those properties.

6. *There is insufficient evidence to show that the variations will impair an adequate supply of light and air to adjacent property. The variations will not substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety. There is insufficient evidence as to whether the variations will substantially diminish or impair property values within the neighborhood.*

The variations, if granted, would allow the Applicant to construct the proposed connector, the proposed raised rear terrace and the proposed access stair. From the submitted photographs and the submitted plans, it is likely that the proposed connector, the raised terrace and the proposed access stair would present a disruption to the light in the rear yards of the adjacent properties. Other than a brief, conclusory, and unsupported statement by Mr. Ryan, the Applicant offers no evidence to show that light would not be impaired. As such, ZONING BOARD OF APPEALS finds that there is insufficient evidence to show that the variations will not impair to supply of light to the rear yard of the adjacent properties.

As the variations will have no effect on the four garage parking spaces of the subject property, the Zoning Board of Appeals finds that the variations will not substantially

increase the congestion in the public streets. Furthermore, had the variations been approved, they would have been built pursuant to valid permits issued by the City's Department of Buildings. As such, they would not substantially increase the danger of fire or endanger the public safety. Lastly, there is insufficient evidence in the record to show that the variations will not substantially impair property value within the neighborhood. It is up to the Applicant to prove its case. The Applicant provided no testimony or evidence at hearing to address this criterion. The sole argument the Applicant puts forth is in Mr. Ryan's affidavit, which is echoed in the Applicant's proposed Findings of Fact. There, the Applicant and Mr. Ryan conclude that the variations will not diminish property values simply because the variations are to the rear of the property. This necessarily requires the acceptance of the proposition that all variations located to the rear of a property have no effect on property values in the neighborhood. The ZONING BOARD OF APPEALS needs more in the way of evidence before it can accept such a conclusion as sufficient evidence.

IV. CONCLUSION

For all of these reasons, the ZONING BOARD OF APPEALS finds that the Applicant has not proved its case by evidence, testimony and the entire record, including the Applicant proposed Findings of Fact, covering the specific criteria for a variation pursuant to Sections 17-13-1107-A, B and C of the Chicago Zoning Ordinance.

The ZONING BOARD OF APPEALS hereby denies the Applicant applications for variations.

This is a final decision subject to review under the Illinois Administrative Review Law, 735 ILCS 5/3-101 *et seq.*

APPROVED AS TO SUBSTANCE

By: 
Timothy Knudsen, Chairman

I, Janine Klich-Jensen, staff person for the ZONING BOARD OF APPEALS, certify that I caused this to be placed in the USPS mail at 121 North LaSalle Street, Chicago, IL on 1/19, 2021.


Janine Klich-Jensen

ZONING BOARD OF APPEALS, CITY OF CHICAGO, CITY HALL, ROOM 905

APPLICANT: Matt Wilbur Cal. No. 350-20-S
 APPEARANCE FOR: Andrew Scott **MINUTES OF MEETING:**
 October 16, 2020
 APPEARANCE AGAINST: None
 PREMISES AFFECTED: 2803 W. Henderson Street

NATURE OF REQUEST: Application for a special use to establish two ground floor live work units for a total of twenty dwelling units in the four-story building with twenty on-site parking spaces.

**ACTION OF BOARD-
 APPLICATION APPROVED**

NOV 23 2020
 CITY OF CHICAGO
 ZONING BOARD OF APPEALS

THE VOTE

TIMOTHY R. KNUDSEN
 ZURICH ESPOSITO
 BRIAN H. SANCHEZ
 SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
X		
X		

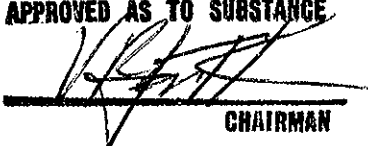
THE RESOLUTION:


WHEREAS, a public hearing was held on this application by the Zoning Board of Appeals at its regular meeting held on October 16, 2020 after due notice thereof as provided under Section 17-13-0107B and by publication in the Chicago Sun-Times on October 1, 2020; and

WHEREAS, the Zoning Board of Appeals, having reviewed the proposed finding of fact and having fully heard the testimony and arguments of the parties and being fully advised in the premises, hereby finds the following; the applicant shall be permitted to establish two ground floor live work units for a total of twenty dwelling units in the four-story building with twenty on-site parking spaces; expert testimony was offered that the use would not have a negative impact on the surrounding community and is in character with the neighborhood; further expert testimony was offered that the use complies with all of the criteria as set forth by the code for the granting of a special use at the subject site; the Board finds the use complies with all applicable standards of this Zoning Ordinance; is in the interest of the public convenience and will not have a significant adverse impact on the general welfare of neighborhood or community; is compatible with the character of the surrounding area in terms of site planning and building scale and project design; is compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise, and traffic generation; and is designed to promote pedestrian safety and comfort; it is therefore

RESOLVED, that the aforesaid special use request be and it hereby is approved and the Zoning Administrator is authorized to permit said special use subject to the following condition(s): provided the development is consistent with the design and layout of the plans and drawings dated July 8, 2020, prepared by Hirsch MPG Architecture and Planning.

That all applicable ordinances of the City of Chicago shall be complied with before a permit is issued.

APPROVED AS TO SUBSTANCE

CHAIRMAN

USPS: 11/23/20 

APPLICANT: Keeper Property Holdings, LLC Cal. No. 351-20-S

APPEARANCE FOR: Sara Barnes

MINUTES OF MEETING:
October 16, 2020

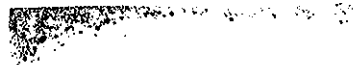
APPEARANCE AGAINST: None

PREMISES AFFECTED: 1601 W. Ohio Street

NATURE OF REQUEST: Application for a special use to convert the existing four-story mixed use (retail and three dwelling unit building) to a three dwelling unit building with first floor interior alteration.

**ACTION OF BOARD-
APPLICATION APPROVED**

THE VOTE



NOV 23 2020
CITY OF CHICAGO
ZONING BOARD OF APPEALS

TIMOTHY R. KNUDSEN
ZURICH ESPOSITO
BRIAN H. SANCHEZ
SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
X		
X		

THE RESOLUTION:

WHEREAS, a public hearing was held on this application by the Zoning Board of Appeals at its regular meeting held October 16, 2020 after due notice thereof as provided under Section 17-13-0107B and by publication in the Chicago Sun-Times on October 1, 2020; and

WHEREAS, the Zoning Board of Appeals, having reviewed the proposed finding of fact and having fully heard the testimony and arguments of the parties and being fully advised in the premises, hereby finds the following; the applicant shall be permitted to convert the existing four-story mixed use (retail and three dwelling unit building) to a three dwelling unit building with first floor interior alteration; expert testimony was offered that the use would not have a negative impact on the surrounding community and is in character with the neighborhood; further expert testimony was offered that the use complies with all of the criteria as set forth by the code for the granting of a special use at the subject site; the Board finds the use complies with all applicable standards of this Zoning Ordinance; is in the interest of the public convenience and will not have a significant adverse impact on the general welfare of neighborhood or community; is compatible with the character of the surrounding area in terms of site planning and building scale and project design; is compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise, and traffic generation; and is designed to promote pedestrian safety and comfort; it is therefore

RESOLVED, that the aforesaid special use request be and it hereby is approved and the Zoning Administrator is authorized to permit said special use subject to the following condition(s): provided the development is consistent with the design and layout of the plans and drawings dated April 6, 2020, prepared by Axios Architects and Consultants.

That all applicable ordinances of the City of Chicago shall be complied with before a permit is issued.

APPROVED AS TO SUBSTANCE

CHAIRMAN

USPS: 11/23/20

APPLICANT: Clade9Chicago LLC and 5851 W. Dickens, LLC Cal. No. 352-20-S

APPEARANCE FOR: Stewart Weiss

MINUTES OF MEETING:
October 16, 2020

APPEARANCE AGAINST: None

PREMISES AFFECTED: 5851 W. Dickens Avenue

NATURE OF REQUEST: Application for a special use to establish a cannabis craft grow facility.

**ACTION OF BOARD-
APPLICATION APPROVED**

THE VOTE

[Faint stamp]

NOV 23 2020
CITY OF CHICAGO
ZONING BOARD OF APPEALS

TIMOTHY R. KNUDSEN
ZURICH ESPOSITO
BRIAN H. SANCHEZ
SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
X		
X		

THE RESOLUTION:

WHEREAS, a public hearing was held on this application by the Zoning Board of Appeals at its regular meeting held on October 16, 2020 after due notice thereof as provided under Section 17-13-0107B and by publication in the Chicago Sun-Times on October 1, 2020; and

WHEREAS, the Zoning Board of Appeals, having reviewed the proposed finding of fact and having fully heard the testimony and arguments of the parties and being fully advised in the premises, hereby finds the following; the applicant shall be permitted to establish a cannabis craft grow facility; an additional special use was granted to the subject property in Cal. No.353-20-S; expert testimony was offered that the use would not have a negative impact on the surrounding community and is in character with the neighborhood; further expert testimony was offered that the use complies with all of the criteria as set forth by the code for the granting of a special use at the subject site; the Board finds the use complies with all applicable standards of this Zoning Ordinance; is in the interest of the public convenience and will not have a significant adverse impact on the general welfare of neighborhood or community; is compatible with the character of the surrounding area in terms of site planning and building scale and project design; is compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise, and traffic generation; and is designed to promote pedestrian safety and comfort; it is therefore

RESOLVED, that the aforesaid special use request be and it hereby is approved and the Zoning Administrator is authorized to permit said special use subject to the following condition(s): provided (1) the special use is issued solely to the applicant, Clade9 Chicago, LLC and 5851 W Dickens, LLC, (2) the proposed shared cannabis processing use, as per application 353-20-S, has been approved by the Zoning Board of Appeals, (3) no retail sales, samples, or physical product displays or stock are allowed at this facility, and (4) the development is consistent with the design and layout of the plans dated October 14, 2020, prepared by Array Architecture and Interiors, Inc., including full restoration of the public right of way, in accordance with CDOT regulations and standards.

That all applicable ordinances of the City of Chicago shall be complied with before a permit is issued.

APPROVED AS TO SUBSTANCE

[Signature]
CHAIRMAN

USPS: 11/23/20

APPLICANT: Clade9Chicago LLC and 5851 W. Dickens, LLC Cal. No. 353-20-S

APPEARANCE FOR: Stewart Weiss

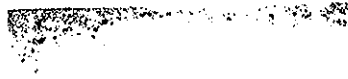
MINUTES OF MEETING:
October 16, 2020

APPEARANCE AGAINST: None

PREMISES AFFECTED: 5851 W. Dickens Avenue

NATURE OF REQUEST: Application for a special use to establish a cannabis processing facility.

**ACTION OF BOARD-
APPLICATION APPROVED**



THE VOTE

NOV 23 2020
CITY OF CHICAGO
ZONING BOARD OF APPEALS

TIMOTHY R. KNUDSEN
ZURICH ESPOSITO
BRIAN H. SANCHEZ
SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
X		
X		

THE RESOLUTION:

WHEREAS, a public hearing was held on this application by the Zoning Board of Appeals at its regular meeting held on October 16, 2020 after due notice thereof as provided under Section 17-13-0107B and by publication in the Chicago Sun-Times on October 1, 2020; and

WHEREAS, the Zoning Board of Appeals, having reviewed the proposed finding of fact and having fully heard the testimony and arguments of the parties and being fully advised in the premises, hereby finds the following; the applicant shall be permitted to establish a cannabis processing facility; an additional special use was granted to the subject property in Cal. No.352-20-S; expert testimony was offered that the use would not have a negative impact on the surrounding community and is in character with the neighborhood; further expert testimony was offered that the use complies with all of the criteria as set forth by the code for the granting of a special use at the subject site; the Board finds the use complies with all applicable standards of this Zoning Ordinance; is in the interest of the public convenience and will not have a significant adverse impact on the general welfare of neighborhood or community; is compatible with the character of the surrounding area in terms of site planning and building scale and project design; is compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise, and traffic generation; and is designed to promote pedestrian safety and comfort; it is therefore

RESOLVED, that the aforesaid special use request be and it hereby is approved and the Zoning Administrator is authorized to permit said special use subject to the following condition(s): provided (1) the special use is issued solely to the applicant, Clade9 Chicago, LLC and 5851 W Dickens, LLC, (2) the proposed shared cannabis processing use, as per application 353-20-S, has been approved by the Zoning Board of Appeals, (3) no retail sales, samples, or physical product displays or stock are allowed at this facility, and (4) the development is consistent with the design and layout of the plans dated October 14, 2020, prepared by Array Architecture and Interiors, Inc., including full restoration of the public right of way, in accordance with CDOT regulations and standards.

That all applicable ordinances of the City of Chicago shall be complied with before a permit is issued.

APPROVED AS TO SUBSTANCE

CHAIRMAN

USPS: 11/23/20

APPLICANT: Willie Brickhouse

CAL NO.: 16-20-Z

APPEARANCE FOR: Thomas Moore

MINUTES OF MEETING:
October 16, 2020

APPEARANCE AGAINST: None

PREMISES AFFECTED: 4124 S. Berkeley Avenue

NATURE OF REQUEST: Application for a variation to reduce the front setback from the front building line from the required 20' to 6.97', rear setback from the required 21.64' to 0.35', north side setback from 2' to zero (south to be 2') combined side setback from 4' to 2', the rear property line located at 10' from the centerline of the alley from the required 2' to 0.35 for a rear attached one car garage and a rear two story addition and a rooftop stairway enclosure to the existing single family home.

**ACTION OF BOARD-
VARIATION GRANTED**

THE VOTE

NOV 23 2020
CITY OF CHICAGO
ZONING BOARD OF APPEALS

TIMOTHY R. KNUDSEN
ZURICH ESPOSITO
BRIAN H. SANCHEZ
SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
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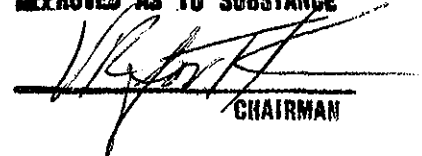
WHEREAS, a public hearing was held on this application by the Zoning Board of Appeals at its regular meeting held on October 16, 2020 after due notice thereof as provided under Section 17-13-0107B and by publication in the Chicago Sun-Times on January 2, 2020; and

WHEREAS, the Zoning Board of Appeals, having reviewed the proposed finding of fact and having fully heard the testimony and arguments of the parties and being fully advised in the premises, hereby finds the following; the applicant shall be permitted to reduce the front setback from the front building line to 6.97', rear setback to 0.35', north side setback to zero (south to be 2') combined side setback to 2', the rear property line located at 10' from the centerline of the alley to 0.35 for a rear attached one car garage and a rear two story addition and a rooftop stairway enclosure to the existing single family home; an additional variation was granted to subject property in Cal. 17-20-Z; the Board finds 1) strict compliance with the regulations and standards of this Zoning Ordinance would create practical difficulties or particular hardships for the subject property; 2) the requested variation is consistent with the stated purpose and intent of this Zoning Ordinance; 3) the property in question cannot yield a reasonable return if permitted to be used only in accordance with the standards of this Zoning Ordinance; 4) the practical difficulties or particular hardships are due to unique circumstances and are not generally applicable to other similarly situated property; and 5) the variation, if granted will not alter the essential character of the neighborhood, it is therefore

RESOLVED, that the Zoning Board of Appeals, by virtue of the authority conferred upon it, does hereby make a variation in the application of the district regulations of the zoning ordinance and that the foresaid variation request be and it hereby is granted subject to the following condition(s):

That all applicable ordinances of the City of Chicago shall be complied with before a permit is issued.

APPROVED AS TO SUBSTANCE


CHAIRMAN

USPS: 11/23/20

ZONING BOARD OF APPEALS, CITY OF CHICAGO, CITY HALL, ROOM 905

APPLICANT: Willie Brickhouse

CAL NO.: 17-20-Z

APPEARANCE FOR: Thomas Moore

MINUTES OF MEETING:
October 16, 2020

APPEARANCE AGAINST: None

PREMISES AFFECTED: 4124 S. Berkeley Avenue

NATURE OF REQUEST: Application for a variation to reduce the rear yard open space from the required seventy-six square feet to zero for a proposed rear two-story addition with a rear attached one-car garage.

**ACTION OF BOARD-
VARIATION GRANTED**

THE VOTE

NOV 23 2020
CITY OF CHICAGO
ZONING BOARD OF APPEALS

TIMOTHY R. KNUDSEN
ZURICH ESPOSITO
BRIAN H. SANCHEZ
SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
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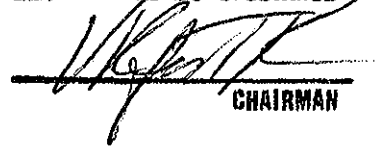
WHEREAS, a public hearing was held on this application by the Zoning Board of Appeals at its regular meeting held on October 16, 2020 after due notice thereof as provided under Section 17-13-0107B and by publication in the Chicago Sun-Times on January 2, 2020; and

WHEREAS, the Zoning Board of Appeals, having reviewed the proposed finding of fact and having fully heard the testimony and arguments of the parties and being fully advised in the premises, hereby finds the following; the applicant shall be permitted to reduce the rear yard open space to zero for a proposed rear two-story addition with a rear attached one-car garage; an additional variation was granted to subject property in Cal. 16-20-Z; the Board finds 1) strict compliance with the regulations and standards of this Zoning Ordinance would create practical difficulties or particular hardships for the subject property; 2) the requested variation is consistent with the stated purpose and intent of this Zoning Ordinance; 3) the property in question cannot yield a reasonable return if permitted to be used only in accordance with the standards of this Zoning Ordinance; 4) the practical difficulties or particular hardships are due to unique circumstances and are not generally applicable to other similarly situated property; and 5) the variation, if granted will not alter the essential character of the neighborhood, it is therefore

RESOLVED, that the Zoning Board of Appeals, by virtue of the authority conferred upon it, does hereby make a variation in the application of the district regulations of the zoning ordinance and that the foresaid variation request be and it hereby is granted subject to the following condition(s):

That all applicable ordinances of the City of Chicago shall be complied with before a permit is issued.

APPROVED AS TO SUBSTANCE


CHAIRMAN

USPS: 11/23/20

**ZONING BOARD OF APPEALS
CITY OF CHICAGO**

City Hall Room 905
121 North LaSalle Street
Chicago, Illinois 60602
TEL: (312) 744-3888



JAN 19 2021

CITY OF CHICAGO
ZONING BOARD OF APPEALS

1618-24 Grand, LLC
APPLICANT

**277-20-S, 278-20-Z,
279-20-Z & 280-20-Z**
CALENDAR NUMBERS

1620 W. Grand Avenue
PREMISES AFFECTED

October 16, 2020
HEARING DATE

ACTION OF BOARD

THE VOTE

The application for the special use is approved subject to the condition set forth in this decision. The applications for the variations are approved.

Timothy Knudsen,
Chairman
Zurich Esposito
Brian Sanchez
Jolene Saul
Sam Toia

AFFIRMATIVE NEGATIVE ABSENT

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**FINDINGS OF THE ZONING BOARD OF APPEALS
IN THE MATTER OF THE SPECIAL USE APPLICATION AND VARIATION
APPLICATIONS FOR 1620 W. GRAND AVENUE BY 1618-24 GRAND, LLC.**

I. BACKGROUND

1618-24 Grand, LLC (the "Applicant") submitted a special use application and three variation applications for 1620 W. Grand Avenue (the "subject property"). The subject property is currently zoned C1-2 and is improved with a one-story vacant office building (the "existing building"). The Applicant proposed to demolish the existing building and erect a four-story, eight dwelling unit building with an eight-car detached garage on the subject property (the "proposed development"). To permit the proposed development, the Applicant sought a special use to establish residential use below the second floor. The Applicant also sought three variations: (1) to reduce the minimum lot area from the required 8,000 square feet to 7,350 square feet; (2) to increase the building height from the maximum 45' to 48.58'; and (3) to increase the area for an accessory building in the rear setback from 1,323 square feet to 1,442.4 square feet. In accordance with Section 17-13-0903 of the Chicago Zoning Ordinance, the Zoning Administrator of the City's Department of Planning and Development (the "Zoning Administrator") recommended approval of the proposed special use provided that the development was consistent with the design and layout of the plans and drawings dated November 18, 2019 prepared by Axios Architects & Consultants.

II. PUBLIC HEARING

A. The Hearing

The ZONING BOARD OF APPEALS held a remote public hearing¹ on the Applicant's special use application at its regular meeting on October 16, 2020, after due notice thereof as provided under Sections 17-13-0107-A(9) and 17-13-0107-B of the Chicago Zoning Ordinance and by publication in the *Chicago Sun-Times*, and as continued without further notice pursuant to Section 17-13-0108-A of the Chicago Zoning Ordinance. In accordance with the ZONING BOARD OF APPEALS' Rules of Procedure (eff. June 26, 2020), the Applicant had submitted its proposed Findings of Facts. The Applicant's managing member Mr. Anthony Lamonia and the Applicant's attorney Mr. Nick Ftikas were present. Also present on behalf of the Applicant were its project architect Mr. Bill Kokalias and its MAI certified real estate appraiser Mr. Terrance O'Brien.

Chicago Grand Neighbors Association ("CGNA") and first ward alderman Daniel La Spata (the "Alderman") sent the ZONING BOARD OF APPEALS letters opposing the Applicant's applications. However, only the Alderman's policy director Mr. Nicholas Zettel entered his appearance and objected at the hearing. The statements and testimony given during the hearing were given in accordance with the ZONING BOARD OF APPEALS' Rules of Procedure and its Emergency Rules (eff. September 9, 2020)².

The Applicant's attorney Mr. Nick Ftikas provided a brief overview of the Applicant's applications.

The Applicant's managing member Mr. Anthony Lamonia offered testimony in support of the Applicant's applications.

The Applicant's architect Mr. Bill Kokalias offered testimony in support of the Applicant's applications.

The Applicant's MAI certified real estate appraiser Mr. Terrance O'Brien offered testimony in support of the Applicant's applications.

The Alderman's policy director Mr. Nicholas Zettel offered testimony in opposition to the applications.

Mr. Zettel then cross-examined Mr. O'Brien and Mr. O'Brien offered further testimony.

Mr. Zettel offered further testimony in opposition to the Applicant's applications.

Mr. Zettel then cross-examined Mr. Lamonia and Mr. Lamonia offered further testimony.

¹ In accordance with Section 7(e) of the Open Meetings Act, 5 ILCS 120/1 *et seq.*

² Such Emergency Rules were issued by the Chairman of the ZONING BOARD OF APPEALS in accordance with his emergency rule-making powers set forth in the Rules of Procedure.

In response to questions by the ZONING BOARD OF APPEALS, Mr. Zettel offered further testimony.

Mr. Ftikas then made his closing statement.

In response to questions by the ZONING BOARD OF APPEALS, Mr. Ftikas made further statements.

B. Criteria for a Special Use

Pursuant to Section 17-13-0905-A of the Chicago Zoning Ordinance, no special use application may be approved unless the ZONING BOARD OF APPEALS finds that the proposed use in its proposed location meets all of the following criteria: (1) it complies with all applicable standards of the Chicago Zoning Ordinance; (2) it is in the interest of the public convenience and will not have a significant adverse impact on the general welfare of the neighborhood or community; (3) it is compatible with the character of the surrounding area in terms of site planning and building scale and project design; (4) it is compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise and traffic generation; and (5) it is designed to promote pedestrian safety and comfort.

C. Criteria for a Variation

Pursuant to Section 17-13-1107-A of the Chicago Zoning Ordinance, no variation application may be approved unless the ZONING BOARD OF APPEALS finds, based upon the evidence presented to it in each specific case, that: (1) strict compliance with the standards of the Chicago Zoning Ordinance would create practical difficulties or particular hardships; and (2) the requested variation is consistent with the stated purpose and intent of the Chicago Zoning Ordinance.

Pursuant to Section 17-13-1107-B of the Chicago Zoning Ordinance, in order to determine that practical difficulties or particular hardships exist, the ZONING BOARD OF APPEALS must find evidence of each of the following: (1) the property in question cannot yield a reasonable return if permitted to be used only in accordance with the standards of the Chicago Zoning Ordinance; (2) the practical difficulties or particular hardships are due to unique circumstances and are not generally applicable to other similarly situated property; and (3) the variation, if granted, will not alter the essential character of the neighborhood.

Pursuant to Section 17-13-1107-C of the Chicago Zoning Ordinance, in making its determination of whether practical difficulties or particular hardships exist, the ZONING BOARD OF APPEALS must take into consideration the extent to which evidence has been submitted substantiating the following facts: (1) the particular physical surroundings, shape or topographical condition of the specific property involved would result in a particular hardship upon the property owner as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out; (2) the conditions

upon which the petition for a variation is based would not be applicable, generally, to other property within the same zoning classification; (3) the purpose of the variation is not based exclusively upon a desire to make more money out of the property; (4) the alleged practical difficulty or particular hardship has not been created by any person presently having an interest in the property; (5) the granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located; and (6) the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.

III. FINDINGS OF FACT

After careful consideration of the evidence, testimony and the entire record, including the Applicant's proposed Findings of Fact, the ZONING BOARD OF APPEALS hereby makes the following findings with reference to the Applicant's application for a special use pursuant to Section 17-13-0905-A of the Chicago Zoning Ordinance:

1. *The proposed special use complies with all applicable standards of the Chicago Zoning Ordinance.*

The subject property is located in a C1-2 zoning district. Residential use below the second floor is a special use in a C1-2 zoning district.³ As credibly testified to by Mr. O'Brien, should the ZONING BOARD OF APPEALS grant the Applicant's special use and variation applications, the proposed development would comply with all applicable standards of the Chicago Zoning Ordinance. Since the ZONING BOARD OF APPEALS has decided to grant the special use and variations to the Applicant, the Applicant's proposed special use therefore complies with all applicable standards of the Chicago Zoning Ordinance.

2. *The proposed special use is in the interest of the public convenience and will not have a significant adverse impact on the general welfare of the neighborhood or community.*

The proposed special use is in the interest of the public convenience as it will allow a currently vacant property to be put to a productive use. Indeed, as the proposed special use will help fulfill (as stated by Mr. O'Brien in his report) the need for more residential dwelling units in the area, the proposed special use is much more in the interest of the public convenience than the subject property's prior use as administrative offices. Further, and as credibly testified to by Mr. O'Brien, the proposed special use will be harmonious and compatible with other land uses in the area and will not have a negative impact on property values. In

³ Section 17-3-0207-A(4-9) of the Chicago Zoning Ordinance.

short, the proposed special use will not have a significant adverse impact on the general welfare of the neighborhood. The ZONING BOARD OF APPEALS finds it significant that, as Mr. O'Brien credibly testified, throughout a two-year period, there have been at least sixteen vacant storefronts within four blocks of the subject property. In contrast, the seventeen ground floor residential dwelling units within those same four blocks have been occupied throughout that same period. Indeed, directly across the street from the subject property there is ground floor residential use (i.e., the buildings at 1617 W. Grand, 1623 W. Grand, and 1627 W Grand). Although Mr. Zettel argued that the West Grand and Ashland Avenue could not be a better place for commercial and retail purposes, the subject property is not on the corner of West Grand and Ashland Avenue. It is located midblock between Ashland Avenue and Marshfield Avenue and, as previously noted, directly across the street from all residential buildings. Further, the ZONING BOARD OF APPEALS agrees with Mr. O'Brien's observations regarding the vacancies and boarded up retail storefronts on that corner. Thus, it is clear there is not a demand for a new retail storefront at this location.

3. *The proposed special use is compatible with the character of the surrounding area in terms of site planning and building scale and project design.*

The proposed special use will be located within the proposed development. As can be seen from comparing the plans and drawings of the proposed development with the photographs of the area, it is clear that the proposed development is compatible with the character of the surrounding area in terms of site planning and building scale and project design. Indeed, the proposed development is very similar to the residential developments directly across the street from the subject property (i.e., 1617 W. Grand and 1623 W. Grand).

4. *The proposed special use is compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise and traffic generation.*

As noted above, there are two all residential developments directly across the street from the subject property. There is ground floor residential use directly behind the subject property. There is also residential use above the ground floor at the buildings next east and next west of the subject property. Thus, the proposed special use is compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operations, outdoor lighting, noise and traffic generation.

5. *The proposed special use is designed to promote pedestrian safety and comfort.*

The proposed special use will be located within the proposed development. All cars will ingress to and egress from the subject property via the alley. The proposed development will be set back and separated from the sidewalk by sod, landscaping and a 5.0' wrought iron fence. The primary entrance to the proposed development will also be set back and away from the sidewalk, ensuring that those entering and exiting the building will not block the sidewalk. Based on all of this, the ZONING BOARD OF APPEALS finds that the proposed special use has been designed to promote pedestrian safety and comfort.

After careful consideration of the evidence, testimony and the entire record, including the Applicant's proposed Findings of Fact, the ZONING BOARD OF APPEALS hereby makes the following findings with reference to the Applicant's applications for variations pursuant to Section 17-13-1107-A of the Chicago Zoning Ordinance:

1. *Strict compliance with the regulations and standards of the Chicago Zoning Ordinance would create practical difficulties or particular hardships for the subject property.*

Variations to reduce the minimum lot area and to increase the area for an accessory building in the rear setback

The subject property is comprised of three lots of record⁴, each measuring 24.5' wide by 100' deep. This 100' lot depth is quite substandard, as a standard City of Chicago ("City") lot is 125' in depth. The lot width of each lot of record is also slightly substandard (as a standard City lot is 25' wide). Therefore, instead of the subject property having a lot area of 9,375 square feet, it has a lot area of 7,350 square feet. This leads to a deficit of 2,385 square feet, which in turn, causes the Applicant to be unable to meet the required minimum lot area of 8,000 square feet necessary for the proposed development. However, as credibly testified to by Mr. Kokalias, it is the subject property's lot depth that creates practical difficulties or particular hardships for the subject property. That is, if the subject property were comprised of three lots of record, each measuring 24.5' x 125' the subject property would have 9,187.5 square feet of area. As the subject property is zoned C1-2, this square footage would allow for (provided the special use were granted) the dwelling units to be constructed on the subject property without the variation to reduce the minimum lot area.⁵ In other words, the subject property's zoning district supports the dwelling units for the proposed development; it is only the subject property's drastically substandard lot depth that prevents the dwelling units being constructed without the variation. Similarly, the substandard lot depth of the subject property reduces the size of rear yard setback, which in turns reduces the overall area of the rear yard and the ability to place a garage that fits the required off-street parking for eight dwelling units without a variation.

⁴ As such term is set forth in Section 17-17-0289 of the Chicago Zoning Ordinance. However, Mr. Ftikas is correct that the subject property comprises one zoning lot. See Section 17-17-02197 of the Chicago Zoning Ordinance.

⁵ See Section 17-3-402-A of the Chicago Zoning Ordinance.

Variation to increase the building height

As noted above, the subject property is located in a C1-2 zoning district. However, as noted by Mr. Ftikas, ground floor commercial or retail use is not economically viable at this location; thus, the Applicant has requested a special use for ground floor residential use. Ground floor residential use suits the subject property much better than ground floor commercial use. Indeed, the subject property is located mid-block and directly across the street from all residential buildings. There are also all residential buildings behind the subject property. While the subject property could support a 50' mixed-use building under the Chicago Zoning Ordinance, an all-residential building on the subject property is capped under the Chicago Zoning Ordinance at a maximum building height of 45'. The practical difficulty or particular hardship then becomes, as Mr. Kokalias testified, that new construction condominium units need a minimum of 9' ceiling heights to be marketable. This requires that the Applicant have at least 3.5' additional feet of building height.

2. *The requested variations are consistent with the stated purpose and intent of the Chicago Zoning Ordinance.*

The requested variations and the proposed development are consistent with the stated purpose and intent of the Chicago Zoning Ordinance, specifically by: (1) promoting the public health, safety and general welfare pursuant to Section 17-1-0501 by allowing a plan of development for the subject property that puts the subject property to its highest and best use; (2) preserving the overall quality of life for residents and visitors pursuant to Section 17-1-0502 by allowing a plan of development for the subject property that is harmonious and compatible with the surrounding area; (4) maintaining orderly and compatible land use and development patterns pursuant to Section 17-1-0508 of the Chicago Zoning Ordinance by proposing a plan of development that is consistent with nearby all-residential developments; and (5) maintaining a range of housing choices and options by Section 17-1-0512 by providing eight new dwelling units in an area that needs more residential use.

After careful consideration of the evidence, testimony and the entire record, including the Applicant's proposed Findings of Fact, the ZONING BOARD OF APPEALS hereby makes the following findings with reference to the Applicant's applications for variations pursuant to Section 17-13-1107-B of the Chicago Zoning Ordinance:

1. *The property in question cannot yield a reasonable return if permitted to be used only in accordance with the standards of the Chicago Zoning Ordinance.*

Variations to reduce the minimum lot area and to increase the area for an accessory building in the rear setback

As set forth above, the subject property is severely substandard in lot depth. It is currently improved with a vacant one-story building that has been on the subject property for approximately fifty years. It is clear when looking at the subject property – especially in comparison with the new construction in the area – that the subject property is not developed to its highest and best use. The ZONING BOARD OF APPEALS agrees with Mr. O'Brien that the substandard lot depth of the subject property makes it incredibly difficult to develop the subject property in accordance with its zoning classification and in accordance with the character and development in the area. Indeed, if the subject property could only be used in accordance with the Chicago Zoning Ordinance, it would be unable to yield a reasonable return as it would be unable to be redeveloped in a manner that is consistent with other new construction in the area. Instead, it would continue to languish with a vacant one-story building.

Variation to increase the building height

As also set forth above, the subject property is located on a portion of West Grand Avenue that is more suited for an all-residential building. Indeed, it is not economically viable to have ground floor commercial at this location (as evidenced by the amount of vacant commercial storefronts in the area). Under the Chicago Zoning Ordinance, an all-residential building on the subject property is capped at 45' in height. However, and as credibly testified to by Mr. Kokalias, the marketplace demands that new construction condominium units have a minimum of 9' high ceilings. Thus, for the subject property to yield a reasonable return, the variation to increase the building height is required, as such variation will allow the proposed development's condominium units to have 9' high ceilings.

2. *The practical difficulties or particular hardships are due to unique circumstances and are not generally applicable to other similarly situated property.*

Variations to reduce the minimum lot area and to increase the area for an accessory building in the rear setback

The substandard lot depth of the subject property is a unique circumstance and is not generally applicable to other commercial property. Most commercial property in the City is 125' in lot depth.

Variation to increase the building height

The subject property's location on a portion of West Grand Avenue where ground floor commercial use is not economically viable is a unique circumstance and is not generally applicable to other commercial property. Most commercial property is not located in an area with many existing vacant storefronts. Nor is most commercial property located midblock in an area with all-residential buildings directly across the street and behind the subject property.

3. *The variations, if granted, will not alter the essential character of the neighborhood.*

The variations will allow the Applicant to construct the proposed development. As can be seen from comparing the plans and drawings of the proposed development with photographs of West Grand Avenue at this location, the proposed development is very much in character with the neighborhood. Indeed, even with the variation to increase building height, the proposed development will still be shorter than the building next east. Therefore, the variations, if granted, will not alter the essential character of the neighborhood.

After careful consideration of the evidence, testimony and the entire record, including the Applicant's proposed Findings of Fact, the ZONING BOARD OF APPEALS hereby makes the following findings with reference to the Applicant's applications for variations pursuant to Section 17-13-1107-C of the Chicago Zoning Ordinance:

1. *The particular physical surroundings, shape or topographical condition of the specific property involved would result in a particular hardship upon the property owner as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.*

Variations to reduce the minimum lot area and to increase the area for an accessory building in the rear setback

The particular shape – that is, the 100' substandard lot depth – of the subject property results in particular hardship to the Applicant. Were it not for this substandard lot-depth, the Applicant would have the minimum lot area necessary to construct the proposed development. The Applicant would also have the minimum rear yard area necessary to construct an accessory building without requesting an increase in area for an accessory building.

Variation to increase the building height

The particular physical surroundings of the subject property – that is, its location on a portion of West Grand Avenue where ground floor commercial use is not economically viable – result in particular hardship to the Applicant. Market demands for condominium units require that new construction condominium units have a minimum of 9' high ceilings. If ground floor commercial use at the subject property were economically viable, the Applicant would be able to provide these 9' high ceilings as of right (as a mixed-use building on the subject property could be 50' in height). However, because of the physical surroundings of the subject property, the Applicant is limited to an all-residential building. This leads to a building height cap of 45', which is not high enough to allow for the required 9' high ceilings.

2. *The conditions upon which the petition for the variations are based would not be applicable, generally, to other property within the same zoning classification.*

The conditions upon which the Applicant's request for variations are based are not generally applicable to other property within the same zoning classification. Properties within C1-2 zoning districts generally are not 100' in depth. Instead, most properties within the C1-2 zoning district (or indeed any zoning district) are 125' in depth. Further, properties within C1-2 zoning districts are generally in areas where ground floor commercial use is economically viable. They are generally not located midblock with ground floor residential use directly across the street and behind the subject property. They are also generally not located in areas where there is a high rate of existing vacant storefronts.

3. *The purpose of the variations is not based exclusively upon a desire to make more money out of the property.*

The purpose of the variations is to allow for the proposed development. As noted in Mr. O'Brien's report, the proposed development is not based exclusively upon a desire to make more money out of the property but also a desire to develop the property in conformity with the existing pattern of development in the area.

4. *The alleged practical difficulty or particular hardship has not been created by any person presently having an interest in the property.*

The Applicant did not create the substandard lot depth of the subject property. The Applicant also did not create the particular physical surroundings of the subject property that make ground floor commercial not economically viable at this location.

5. *The granting of the variations will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.*

The granting of the variations will not be detrimental to the public welfare or injurious to other property or improvements in the subject property's neighborhood because it will enable the subject property to be redeveloped with an all-new residential development in a neighborhood that needs more residential units. Indeed, the proposed development will be far more in line with other new construction in the neighborhood and will thus, as Mr. O'Brien noted, be far more harmonious and compatible with the neighborhood.

6. *The variations will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.*

The proposed variations will not impair adequate supply of light and air to the adjacent property. As can be seen from the plans and drawings, the proposed development will maintain side setbacks pursuant to the Chicago Zoning Ordinance. As the proposed development will provide for eight on-site parking spaces, the proposed variations will not increase congestion in the public streets. The proposed variations will not increase the danger of fire and will not endanger the public safety as the proposed development cannot be built unless and until the Applicant has obtained a valid building permit from the City's Department of Buildings. The proposed variations will not impair property values within the neighborhood, as the variations will allow an aging, vacant one-story building to be replaced with a brand new development that, as noted above, is very much in character with other new construction in the neighborhood.

IV. CONCLUSION

For all of these reasons, the ZONING BOARD OF APPEALS finds that the Applicant has proved its case by evidence, testimony and the entire record, including the Applicant's proposed Findings of Fact, covering the specific criteria for a special use pursuant to Section 17-13-0905-A of Chicago Zoning Ordinance.

The ZONING BOARD OF APPEALS hereby approves the Applicant's application for a special use, and pursuant to the authority granted to the ZONING BOARD OF APPEALS by Section 17-13-0906 of the Chicago Zoning Ordinance, the Zoning Administrator is authorized to permit said special use subject to the following condition:

1. The special use shall be developed consistently with the design and layout of the plans and drawings dated November 18, 2019 prepared by Axios Architects & Consultants.

For all of these reasons, the ZONING BOARD OF APPEALS finds that the Applicant has proved its case by evidence, testimony and the entire record, including the Applicant's proposed Findings of Fact, covering the specific criteria for a variation pursuant to Sections 17-13-1107-A, B and C of the Chicago Zoning Ordinance.

The ZONING BOARD OF APPEALS hereby approves the Applicant's applications for variations, and the Zoning Administrator is authorized to permit said variations.

This is a final decision subject to review under the Illinois Administrative Review Law, 735 ILCS 5/3-101 *et seq.*

APPROVED AS TO SUBSTANCE

By: 
Timothy Knudsen, Chairman

I, Janine Klich-Jensen, staff person for the ZONING BOARD OF APPEALS, certify that I caused this to be placed in the USPS mail at 121 North LaSalle Street, Chicago, IL on 1/19, 2021.


Janine Klich-Jensen

ZONING BOARD OF APPEALS, CITY OF CHICAGO, CITY HALL, ROOM 905

APPLICANT: Becky Keeler

CAL NO.: 283-20-Z

APPEARANCE FOR: Same as Applicant

MINUTES OF MEETING:
October 16, 2020

APPEARANCE AGAINST: None

PREMISES AFFECTED: 1636 W. Warren Boulevard

NATURE OF REQUEST: Application for a variation to reduce the rear setback from the required 37.5' to 22.79', east side setback from 2' to 0.08' (west to be 1.4'), combined side setback from 3.99' to 1.48', the enclosed parking spaces accessing alleys from 2' to 0.08' for a proposed two-car parking stall carport with roof deck and bridge accessing the roof deck from the rear open porch of the existing two story residential building.

**ACTION OF BOARD-
VARIATION GRANTED**

THE VOTE

NOV 23 2020
CITY OF CHICAGO
ZONING BOARD OF APPEALS

TIMOTHY R. KNUDSEN
ZURICH ESPOSITO
BRIAN H. SANCHEZ
SAM TOIA

AFFIRMATIVE	NEGATIVE	ABSENT
X		
X		
X		
X		

WHEREAS, a public hearing was held on this application by the Zoning Board of Appeals at its regular meeting held October 16, 2020 after due notice thereof as provided under Section 17-13-0107B and by publication in the Chicago Sun-Times on September 1, 2020; and

WHEREAS, the Zoning Board of Appeals, having reviewed the proposed finding of fact and having fully heard the testimony and arguments of the parties and being fully advised in the premises, hereby finds the following; the applicant shall be permitted to reduce the rear setback to 22.79', east side setback to 0.08' (west to be 1.4'), combined side setback to 1.48', the enclosed parking spaces accessing alleys to 0.08' for a proposed two-car parking stall carport with roof deck and bridge accessing the roof deck from the rear open porch of the existing two story residential building; an additional variation was granted to subject property in Cal. 284-20-Z; the Board finds 1) strict compliance with the regulations and standards of this Zoning Ordinance would create practical difficulties or particular hardships for the subject property; 2) the requested variation is consistent with the stated purpose and intent of this Zoning Ordinance; 3) the property in question cannot yield a reasonable return if permitted to be used only in accordance with the standards of this Zoning Ordinance; 4) the practical difficulties or particular hardships are due to unique circumstances and are not generally applicable to other similarly situated property; and 5) the variation, if granted will not alter the essential character of the neighborhood, it is therefore

RESOLVED, that the Zoning Board of Appeals, by virtue of the authority conferred upon it, does hereby make a variation in the application of the district regulations of the zoning ordinance and that the foresaid variation request be and it hereby is granted subject to the following condition(s):

That all applicable ordinances of the City of Chicago shall be complied with before a permit is issued.

APPROVED AS TO SUBSTANCE


CHAIRMAN

USPS: 11/23/20

**ZONING BOARD OF APPEALS
CITY OF CHICAGO**

City Hall Room 905
121 North LaSalle Street
Chicago, Illinois 60602
TEL: (312) 744-3888



JAN 19 2021
CITY OF CHICAGO
ZONING BOARD OF APPEALS

Old Town Barbershop Co.
APPLICANT

290-20-S
CALENDAR NUMBER

1805-09 W. Division Street
PREMISES AFFECTED

October 16, 2020
HEARING DATE

ACTION OF BOARD

THE VOTE

The application is approved.

AFFIRMATIVE NEGATIVE ABSENT

Timothy Knudsen,
Chairman
Zurich Esposito
Brian Sanchez
Jolene Saul
Sam Toia

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**FINDINGS OF THE ZONING BOARD OF APPEALS
IN THE MATTER OF THE SPECIAL USE APPLICATION FOR 1805-09 W.
DIVISION STREET BY OLD TOWN BARBERSHOP CO.**

I. BACKGROUND

Old Town Barbershop Co. (the "Applicant") submitted a special use application for 1805-09 W. Division Street (the "subject property"). The subject property is currently zoned B3-2 and is improved with a mixed-use building (the "building"). The Applicant sought a special use to establish a barbershop in one of the building's ground floor commercial storefronts. In accordance with Section 17-13-0903 of the Chicago Zoning Ordinance, the Zoning Administrator of the City's Department of Planning and Development (the "Zoning Administrator") recommended approval of the proposed barbershop.

II. PUBLIC HEARING

A. The Hearing

The ZONING BOARD OF APPEALS held a remote public hearing¹ on the Applicant's special use application at its regular meeting on October 16, 2020, after due notice thereof as provided under Sections 17-13-0107-A(9) and 17-13-0107-B of the Chicago Zoning Ordinance and by publication in the *Chicago Sun-Times*, and as

¹ In accordance with Section 7(e) of the Open Meetings Act, 5 ILCS 120/1 *et seq.*

continued without further notice pursuant to Section 17-13-0108-A of the Chicago Zoning Ordinance. In accordance with the ZONING BOARD OF APPEALS' Rules of Procedure (eff. June 26, 2020), the Applicant had submitted its proposed Findings of Facts. The Applicant's president Mr. Jeffery Irwin and its attorney Ms. Sara Barnes were present at the hearing. Also present on behalf of the Applicant was the Applicant's secretary Ms. Sheree Abbass Irwin, the Applicant's land use planner Mr. Kareem Musawwir and Mr. Joseph Kiferbaum. Mr. Kiferbaum is the manager of the Karkif Division 2, LLC, which owns the subject property. Opposing the application were Ms. Megan Praner and a representative of first ward alderman Daniel La Spata (the "Alderman") Mr. Nicholas Zettel.² The statements and testimony given during the hearing were given in accordance with the ZONING BOARD OF APPEALS' Rules of Procedure and its Emergency Rules (eff. September 9, 2020)³.

At the start of the hearing, the Chairman made some opening remarks, namely that under Illinois law, control or restriction of competition was not a proper or valid zoning concern.

The Applicant's attorney Ms. Sara Barnes provided a brief overview of the Applicant's application.

The Applicant offered the testimony of its president Mr. Jeffery Irwin in support of the application.

The Applicant offered the testimony of its land use planner Mr. Kareem Musawwir in support of the application.

Ms. Megan Praner, of 1322 N. Damen, offered testimony in opposition to the application.

The Alderman's representative Mr. Nicholas Zettel offered testimony in opposition to the application.⁴

In response to Ms. Praner and Mr. Zettel's testimony, the Applicant offered further testimony from Mr. Musawwir in support of the application.

The Applicant then offered the testimony of Mr. Joseph Kiferbaum in support of the application.

The Applicant then offered further testimony from Mr. Musawwir.

² Although a Mr. Corey Smith filled out a public testimony request form on this application, he did not attend the hearing. As such, he also did not object at the hearing.

³ Such Emergency Rules were issued by the Chairman of the ZONING BOARD OF APPEALS in accordance with his emergency rule-making powers set forth in the Rules of Procedure.

⁴ At the hearing, there was some confusion on the ZONING BOARD OF APPEALS part as to whether Mr. Zettel had properly submitted a public testimony request form for the application. After the hearing, ZONING BOARD OF APPEALS' staff did indeed find his properly submitted form. The ZONING BOARD OF APPEALS apologizes for the confusion.

The Applicant then offered further testimony from Mr. Kiferbaum.

B. Criteria for a Special Use

Pursuant to Section 17-13-0905-A of the Chicago Zoning Ordinance, no special use application may be approved unless the ZONING BOARD OF APPEALS finds that the proposed use in its proposed location meets all of the following criteria: (1) it complies with all applicable standards of the Chicago Zoning Ordinance; (2) it is in the interest of the public convenience and will not have a significant adverse impact on the general welfare of the neighborhood or community; (3) it is compatible with the character of the surrounding area in terms of site planning and building scale and project design; (4) it is compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise and traffic generation; and (5) it is designed to promote pedestrian safety and comfort.

III. FINDINGS OF FACT

After careful consideration of the evidence, testimony and the entire record, including the Applicant's proposed Findings of Fact, the ZONING BOARD OF APPEALS hereby makes the following findings with reference to the Applicant's application for a special use pursuant to Section 17-13-0905-A of the Chicago Zoning Ordinance:

1. *The proposed special use complies with all applicable standards of the Chicago Zoning Ordinance.*

Section 17-9-0112 of the Chicago Zoning Ordinance states, in pertinent part, that "[s]pecial use approval is required for hair salons, barber shops, beauty shops, and nail salons in "B" [zoning] districts when such use is located within 1,000 feet of any other hair salon, barber shop, beauty shop or nail salon." The subject property is zoned B3-2. Since Ms. Praner operates a barbershop within 500' of the subject property, the Applicant requires a special use to establish a barbershop on the subject property.⁵ The Applicant seeks no other zoning relief from the ZONING BOARD OF APPEALS. That is, the Applicant is not seeking any relief from the bulk and density standards of the B3-2 zoning district. Nor is the Applicant seeking any relief from the parking standards of the B3-2 zoning district. It is only the special use that brings the Applicant before the ZONING BOARD OF APPEALS. Since the ZONING BOARD OF APPEALS has decided to grant the special use to the Applicant, the Applicant's proposed special use complies with all applicable standards of the Chicago Zoning Ordinance.

⁵ Section 17-3-0207-MM(1) of the Chicago Zoning Ordinance.

2. *The proposed special use is in the interest of the public convenience and will not have a significant adverse impact on the general welfare of the neighborhood or community.*

The proposed special use will allow the Applicant to serve its clients living or working in the Wicker Park, Logan Square and Bucktown neighborhoods. As credibly testified to by Mr. Irwin, the Applicant currently operates two locations: one in Old Town and one in the West Loop. However, many of the Applicant's clients do not live or work in Old Town or the West Loop and instead must travel to these locations. Consequently, the Applicant has been asked by its clients about opening a third location in Wicker Park⁶. This third location will have a staff of six to eight cosmetologists and barbers and will allow a currently vacant storefront to be revitalized with a viable business. Thus, the proposed special use is in the interest of the public convenience.

Contrary to Mr. Zettel's and Ms. Praner's arguments, there is no "1,000 foot barrier" or "original zoning of 1,000 feet" with respect to personal service uses in B districts. Any personal service use in a B district can be located within 1,000 feet of another personal service use – provided, of course, that such personal service use obtains a special use. Nor is there any sort of assumption in the Chicago Zoning Ordinance that personal service uses in B districts require special uses in order to "attain economic diversity." Indeed, the only assumption in the Chicago Zoning Ordinance is that one of its purposes is "maintaining economically vibrant as well as attractive business and commercial uses."⁷ The ZONING BOARD OF APPEALS therefore agrees with Ms. Barnes that, with respect to commercial uses in the B-3 zoning district, the Chicago Zoning Ordinance promotes activating commercial storefronts and not having vacant storefronts. In the instant case, the proposed special use will activate a currently vacant storefront. Moreover, and as testified by Mr. Musawwir, this stretch of West Division is a small retail area of the Wicker Park neighborhood with commercial uses that complement the nearby residential uses. For instance, in the 1700 block of West Division, there are eight restaurants, two bars and one liquor store. In the 1800 block of West Division, there are eight restaurants, a barbershop and a hair salon. In the 1900 block of West Division there are eleven restaurants, three bars and two hair salons. Thus, it is clear that the proposed special use is in character with the other uses along this stretch of West Division. The proposed special use itself will be well run, as credibly testified to by Mr.

⁶ As the subject property is located on Division, the subject property could also be considered to be in East Ukrainian Village (as stated in Mr. Musawwir's report). However, as everyone referred to the Wicker Park neighborhood at the hearing, the ZONING BOARD OF APPEALS will also refer to the subject property as being in Wicker Park.

⁷ Section 17-1-0504 of the Chicago Zoning Ordinance.

Irwin. The ZONING BOARD OF APPEALS agrees with Mr. Kiferbaum that businesses that are not well run (especially personal service uses) do not stay in operation and thus, by creating vacant storefronts, do not positively contribute to the general welfare of the neighborhood. Based on all of this, the ZONING BOARD OF APPEALS finds that the proposed special use will not have a significant adverse impact on the general welfare of the neighborhood.⁸

3. *The proposed special use is compatible with the character of the surrounding area in terms of site planning and building scale and project design.*

The proposed special use will be located within the building. As can be seen from the photographs of the area, the building is compatible with other new construction buildings in the area in terms of site planning and building scale and project design. Moreover, the proposed special use will be located in a storefront that previously housed a barbershop. Thus, the proposed special use is compatible with the character of the surrounding area in terms of site planning and building scale and project design.

4. *The proposed special use is compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise and traffic generation.*

As noted above, this stretch of West Division is a small retail area of the Wicker Park neighborhood. It is, as Mr. Musawwir testified, home to commercial uses that are complementary to the nearby residential use; that is, this stretch of West Division is improved with restaurant, bar and personal service uses as well as other uses (i.e. dry cleaners, convenience stores, dentists). The Applicant's proposed special use is therefore compatible in terms of operating characteristics. For instance, the Applicant's proposed hours of operation are not only compatible with the residential use in the building (and above the ground floor in other buildings in the area) but also the nearby commercial uses. Similarly, the proposed special use will have muted recess lighting and discreet signage. And, of course, as the proposed special use will only be approximately 1,500 square feet, it will not generate much traffic. Indeed, as the Applicant is opening the proposed special use, in large part, due to its clientele living and working in Wicker Park and other, nearby neighborhoods, it is expected that the vast majority of the clientele will arrive on foot or via public transportation.

5. *The proposed special use is designed to promote pedestrian safety and comfort.*

⁸ The ZONING BOARD OF APPEALS declines to consider Ms. Praner's arguments that by allowing the proposed special use, the other hair salons in the neighborhood will be "strained." Such arguments are entirely based on competition.

From the pictures of the storefront, it is clear that the proposed special use has been designed to promote pedestrian safety and comfort. With all glass doors, patrons will be able to ensure that when they exit the proposed special use, they will not accidentally swing the door into pedestrians (as they would if the doors were opaque). With the glass windows, the proposed special use will contribute to the eyes on the street safety so critical in such large cities as Chicago. This is especially important as Mr. Kiferbaum testified that there is vacancy in the commercial spaces in the neighborhood.

IV. CONCLUSION

For all of these reasons, the ZONING BOARD OF APPEALS finds that the Applicant has proved its case by evidence, testimony and the entire record, including the Applicant's proposed Findings of Fact, covering the specific criteria for a special use pursuant to Section 17-13-0905-A of the Chicago Zoning Ordinance.

The ZONING BOARD OF APPEALS hereby approves the Applicant's application for a special use, and the Zoning Administrator is hereby authorized to permit said special use.

This is a final decision subject to review under the Illinois Administrative Review Law, 735 ILCS 5/3-101 *et seq.*

APPROVED AS TO SUBSTANCE

By: 
Timothy Knudsen, Chairman

I, Janine Klich-Jensen, staff person for the ZONING BOARD OF APPEALS, certify that I caused this to be placed in the USPS mail at 121 North LaSalle Street, Chicago, IL on 1/19, 2021.


Janine Klich-Jensen