

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 12425 of Sonia Diatz, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Sub-section 7104.2 to change a non-conforming use from a power laundry coin operated, less than five employees, first floor to a carry out restaurant, first floor in the R-4 District at the premises 1331 Constitution Avenue, N.E. (Square 1034, Lot 72).

HEARING DATE: June 15, 1977
DECISION DATE: July 12, 1977

FINDINGS OF FACT:

1. The subject property is located on the south side of Constitution Avenue between 13th and 14th Streets, N.E. The property is occupied by a one story brick structure which contains approximately 555 square feet.

2. The building is currently vacant, and has not been used since 1968. The last use of the property was as a power laundry, coin operated, less than five employees, covered by Certificate of Occupancy No. B-51629, dated May 14, 1965.

3. The applicant proposes to use the building as a carry-out restaurant serving gourmet-type Chinese food. There would be no seats available for consumption of food on the premises. The proposed hours of operation would be from 10:00 a.m. to 10:00 p.m., Monday through Saturday and 5:00 p.m. to 10:00 p.m. on Sunday.

4. Both the previous use and the proposed use are class II non-conforming uses and are both first permitted in a C-1 District.

5. The Zoning Regulations permit a class II non-conforming use to be changed if the proposed use is either a neighborhood facility or if not a neighborhood facility, is a use which will not be objectionable and not adversely affect the present character or future development of the neighborhood.

6. The subject property is abutted on both sides by commercial uses, including a liquor store to the east and a record and variety shop to the west. The neighborhood is predominantly residential in use, with two and three story brick row houses and flats.

7. Constitution Avenue is ninety feet wide, but has only three lanes of traffic. During the morning peak hours, traffic flows one way westbound. During the evening peak hours, traffic flows one way eastbound. At all other times, traffic operates in both directions, with no parking permitted on the north side of Constitution Avenue.

8. Parking for delivery vehicle for the carry-out could be located in the rear yard. There will be no customer parking provided, and on-street parking is in short supply.

9. The Capitol Hill Restoration Society, by statement dated June 15, 1977 and by testimony presented at the hearing, opposed the application on the grounds that existing parking and traffic conditions would be worsened, that trash and litter would be a problem and that a carry-out would generally be objectionable in this area.

CONCLUSIONS OF LAW AND OPINION:

The Board concludes that the proposed use is permitted in the most restrictive district in which the previous use is permitted, and that the application thus meets the requirements of Sub-section 7104.2. However, the Board concludes that the type of business proposed by the applicant will have to service a broader area than the immediate neighborhood to survive. As such, it would worsen traffic and parking problems in an area where such problems already exist. The Board concludes that the use is likely to adversely effect the future development of the area in a manner consistent with the Zoning Regulations. The Board concludes that the application is not consistent with the intent and purpose of the Zoning Regulations. It is therefore ORDERED that the application be DENIED.

VOTE: 4-0 (Charles R. Norris, Walter B. Lewis, Leonard L. McCants and William F. McIntosh to DENY)

BY ORDER OF THE D.C BOARD OF ZONING ADJUSTMENT

ATTESTED BY: *Steven E. Sher*
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: **6 SEP 1977**