

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 12745 of Fannie S. Greespan, 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 retail grocery store, patent medicine and cigarettes (first floor) to a retail grocery store and delicatessen (first floor) in the R-4 District at the premises 400 East Capitol Street, N.E., (Square 816, Lot 827).

HEARING DATE: September 27, 1978

DECISION DATE: September 27, 1978 (Bench Decision)

FINDINGS OF FACT:

1. The subject site is located on the northeast corner of the intersection of East Capitol Street and 4th Street, known as 400 East Capitol Street, N.E. It is in an R-4 District.

2. The site is topographically flat, rectangular in shape and consists of 1,300 square feet of land area. The site is developed with a two-story tan brick building. The first floor houses the subject grocery store, the second floor contains an apartment.

3. To the north and east are row dwellings and apartment buildings, to the south across East Capitol are row dwellings, a doctors office and a valet shop, and to the west across 4th Street is Grubbs Pharmacy followed by row dwellings.

4. The applicant is requesting permission to add to the existing non-conforming grocery store a delicatessen in the form of providing sandwiches and coffee to his customers.

5. There will be no cooking and consumption of food on the premises. The delicatessen use will remain an accessory to the main use which is a neighborhood grocery store.

6. The proposed delicatessen will occupy existing space within the present grocery store. There will be no enlargements or structural alterations made to the building.

7. The majority of the store's patronage is presently from neighborhood walk-in customers.

8. The proposed use is first permitted in a C-1 District. The present use is also first permitted in a C-1 District.

9. By report dated September 19, 1978 and by testimony at the hearing, Municipal Planning Office recommended that the application be granted on the grounds that the conditional approval of the requested special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Map and will not tend to affect adversely the use of neighboring property. MPO recommended that this application be approved with the condition that trash receptacles are placed on the exterior of the premises, and that the area surrounding the store be kept free of litter.

10. Advisory Neighborhood Commission 6B voted to oppose the application on the grounds that a carry-out operation would contribute to litter in the immediate area and would not serve the needs of the area residents but rather those from outside the neighborhood.

11. The Board is required by statute to give "great weight" to the issues and concerns of the Advisory Neighborhood Commission. As to those issues and concerns, the Board finds that the present use of the premises is a neighborhood oriented establishment, that the proposed additions of the "delicatessen" will be only for very limited serving of food and beverages, that the store will continue to serve primarily neighborhood uses and that there will be no real changes in the present operation. As to the potential adverse effect, the Board finds that the delicatessen operation will be so minimal as to preclude adverse effects of any measurable quantity.

CONCLUSIONS OF LAW AND OPINION

The Board concludes that the proposed change of non-conforming use can be granted, in that the proposed use is permitted in the most restrictive district in which the present use is permitted. The Board concludes that the proposed use will be a neighborhood facility as is the present use. The Board finds that there will be no structural alterations to the present property and that no other structure is involved.

The Board is of the opinion that the change of a non-conforming use to include a delicatessen will not increase the litter that accumulates on the outside.

The Board concludes that it has accorded to the Advisory Neighborhood Commission the "great weight" to which it is entitled, and for the reasons specified, concludes that its recommendation should not be followed and the application should be approved.

The Board concludes that the special exception requested will be in harmony with the general purpose and intent of the Zoning Regulations and Maps. The Board further concludes that the granting of this application will not tend to affect adversely the use of neighboring property and the community. Accordingly, it is ordered that the application is GRANTED.

VOTE: 5-0 (Charles R. Norris, William F. McIntosh, Chloethiel Woodard Smith, Leonard L. McCants and Walter B. Lewis to grant)

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

ATTESTED BY:



STEVEN E. SHER

Executive Director

FINAL DATE OF ORDER:

20 OCT 1978

THAT THE ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS ONLY UNLESS APPLICATION FOR A BUILDING AND/OR OCCUPANCY PERMIT IS FILED WITH THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER.