

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13009, as amended, of Safeway Holding Co., pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the rear yard requirements (Sub-section 5303.1 and Paragraph 7107.22) and the loading berth requirements (Section 7302) to construct an addition to a retail grocery store, a non-conforming structure, in a C-2-B District at the premises 1747 Columbia Road, N.W. (Square 2580, Lot 512).

HEARING DATES: August 15, September 4, and November 7, 1979
DECISION DATE: December 5, 1979

FINDING OF FACT:

1. This application was first scheduled for the public hearing of August 15, 1979. It was not heard since the BZA lacked a quorum at 5:00 p.m. on said date when the case came up to be heard. The hearing, with consent of the parties present, was continued to September 4, 1979. When the application was advertised for the public hearing of August 15, 1979, in addition to the rear yard and loading berth variances, the applicant also sought a variance from the parking requirements.

2. On September 4, 1979, the application was continued at the request of the Office of Planning and Development and the Department of Transportation who wished to propose some plans for the applicant to meet the parking requirements of the Zoning Regulations. The ANC also concurred in the request for a continuation.

3. By letter of September 25, 1979, the applicant advised that it now intended to construct below-grade parking that would provide the twenty-seven parking spaces required under the Zoning Regulations and, accordingly, would not request a variance from the parking requirements. The application, as amended, was scheduled for a public hearing on November 7, 1979.

4. The subject site is located on the north side of Columbia Road between Ontario Road to the east and Adams Mill Road to the west. It is known as 1747 Columbia Road, N.W. and is in a C-2-B District.

5. The subject site is improved with a Safeway Store and a twenty-nine space customer parking lot. There is a loading dock located on the northeast corner of the building which has access from the parking lot.

6. To the north of the subject site is a fifteen foot wide alley followed by the rear yards of row dwellings which front on Lanier Place in the R-5-B District. To the east is a ten foot wide alley followed by the rear yards of row dwellings on Ontario Road and the Barney Senior Citizens' Center in the C-2-B District. To the south across Columbia Road, a 100 foot right-of-way, there are several businesses in the C-2-B District, including the New Zodiac Shop, Iglesia De Dios, Literary Action and Rya Optician. Many of these shops have residential units on the upper floors. To the west is a Giant Food Store followed by a cleaners, restaurant, vacant lot and the Imperial apartment house, all in the C-2-B District.

7. Safeway Stores Inc. proposes to expand the existing store by building on the area of the subject parking lot a one-story addition to the store. The expanded store would contain approximately 22,000 square feet in sales area. Parking will be provided in the rear yard and underground in a garage underneath the proposed addition. The entrance to the underground parking garage would be from the fifteen foot wide alley at the north side, or rear, of the enlarged store. There would be seven spaces in the rear yard and twenty-seven spaces in the underground garage. Safeway is also promoting a program for its employees to use public transportation.

8. The existing Safeway store was built in 1950, which was prior to the adoption of the current Zoning Regulations on May 12, 1958. This store has a rear yard with a depth of 13.5 feet which is 1.5 feet less than the depth required by the current Zoning Regulations, Safeway testified that in order to achieve the maximum utilization of the lot and maintain the continuity of the rear wall of the enlarged store. Safeway proposes to provide a rear yard of 13.5 feet for the addition. The applicant is thus seeking a variance of 1.5 feet from the rear yard requirements of the Zoning Regulations.

9. The Zoning Regulations require two loading berths for a retail grocery store exceeding 20,000 square feet gross floor area, the first to be twelve by twenty feet in size and the second to be twelve by forty-five feet in size. Safeway proposes to use a single loading berth twelve by forty-five feet in size for a store containing 22,225 square feet gross floor area. The loading berth would be located on the east side of the enlarged store adjacent to the ten foot-wide alley. The entrance to the loading dock would be from Columbia Road. The applicant is requesting a variance to provide only one loading berth.

10. The area in which the store is located is a mix of residential use, including townhouses and apartment buildings, and a strip of commercial uses on both sides of Columbia Road in the immediate area of the subject Safeway.

11. The applicant testified that the existing Safeway Store is a neighborhood store but is too small to provide the necessary grocery service to the surrounding community. The aisles within the store are frequently congested and the store is unable to stock the quantity and variety of merchandise that is sought by neighborhood residents. The applicant further testified that the expansion of the store is not expected to change the store's market area but will permit Safeway to serve existing customers better.

12. Safeway testified that it cannot expand the existing store beyond the size currently proposed because all of the commercially-zoned property adjacent to the store is improved and under adverse ownership. The only land with a reasonable potential for expansion lies to the northeast of the existing store. Expansion on that area would deplete the area's housing stock since it would necessitate the demolition of townhouses currently used for residential purposes.

13. The applicant testified that compliance with the rear yard requirements would create a practical difficulty for the applicant. Because of the size and location of the lot, the loss of 1.5 feet in the depth of the proposed addition would result in a disproportionately greater loss of usable space within the proposed addition which cannot be accommodated by redesigning the interior layout. The reduction of the length of the building can only be accommodated by a reduction of either the stockroom or salesroom. Because the food industry equipment can only be acquired in standard-sized units, the reduction of 1.5 feet in the stockroom would result in the loss of an entire row of pallets along the rear wall. If the 1.5 feet reduction is made in the sales room, four feet of refrigerator case, sixteen feet of freezer case, and twenty-four feet of grocery shelves, or an entire grocery section, could not be provided for customers. In addition, the reduction of the building length will extend below grade and reduce the capacity of the underground garage by three parking spaces. The Board so finds that the practical difficulty exists.

14. The applicant also testified that compliance with the loading berth requirements would create a practical difficulty for the applicant. Because of the size and location of the lot a second loading berth would significantly reduce the building area and make the construction of an addition to the existing store economically unfeasible. The applicant's proposed loading berth exceeds both the size of the loading berth required by the Zoning Regulations when only one loading berth is provided and is the largest loading berth required by the regulations. The applicant further testified that there is sufficient space in the loading berth and ramp leading to the loading platform from the street to accommodate one Safeway trailer and one non-Safeway truck at the same time, or three non-Safeway trucks. The applicant's witnesses testified that it was Safeway's experience in the retail food business that Safeway stores of this size require only one loading berth. The Board so finds that the practical difficulty exists.

15. The applicant's witnesses testified that the increase in the area of the sales room and stockroom would enable the store to accept more merchandise from each truck and the total number of truck deliveries to the enlarged store would decrease.

16. The Office of Planning and Development, by report dated October 11, 1979 recommended that the application be approved. The OPD reported as follows:

"The amended Safeway drawings which provide on-site parking, represent the working together and compromise of the applicant, community and District government to develop a plan which addresses the concerns of the residents of the Adams-Morgan Community, such as parking and quality food services. The OPD is of the opinion that variance relief from the loading berth requirements will not cause detriment to the public good. The DOT has reviewed this aspect of the plan and finds that one berth in this instance will not tend to affect adversely the use of the neighboring properties. The applicant has indicated that to install the required two loading berths, given the size of the lot, would create a hardship as a second berth would reduce the proposed sales area appreciably and require a building design which would be impractical for efficient operation of a retail grocery store. The applicant's provision of twenty-seven underground parking spaces will not, by itself, solve the parking problems in the Adams-Morgan business district, but it is a step in the right direction and will not exacerbate the present conditions." The Board so finds.

17. The Department of Transportation in its memorandum dated August 29, 1979 addressed itself to the application prior to its amendment. It reported as follows:

"Complete elimination of parking for employees and customers of the proposed expanded store is not acceptable for several significant reasons. The proposed truck loading operations are also of concern because of the increased use of Columbia Road that is planned for maneuvering cargo vehicles into the site.

DOT's chief concern, however, is the adverse effect of no accessory parking at a major grocery supermarket in a dense commercial zone that lacks a sufficient overall parking supply. Businesses on Columbia Road in the vicinity of 18th Street generally lack accessory parking either because of size exemptions or developments that pre-date current zoning standards. The result is that there is a moderate to severe shortage of both long and short term parking that is manifested by serious illegal use of street space for parking and loading purposes.

Elimination of parking by the applicant together with a store expansion will exacerbate a critical parking shortage and likely encourage greater illegal parking. The greater parking demand that would be applied to streets in the area of this development will result in a loss of street operations efficiency, increased competition for scarce street parking, possible safety hazards from unauthorized parking, and a general deterioration of transportation access that will adversely affect the entire business community.

Columbia Road is an arterial street that serves 20,000 vehicles per day. Any land use development that adversely affects this facility will, therefore, affect the movement of this traffic volume as well.

The applicant's reports underscore the need for accessory parking. In a customer survey conducted in July, 1979, it was reported that over one-quarter of the applicant's customers travel by automobile. Nearly 60 percent of the customers reside at a distance of more than 1/4 mile from the store. Expansion of the store could increase automobile traffic in view of the fact that this store will be almost as large as the applicant's largest store in the city. The DOT suspects that the mere fact that retail selections will be enlarged could generate

automobile traffic just so people can carry larger purchases. But the fact remains, that this store already generates a parking need and to eliminate all parking supply in the face of that need remaining or being increased as a result of the store expansion is unacceptable. Moreover, DOT notes that the package transfer to automobiles function, while now possible to transact in the existing lot, will be forced to occur in the street. This would require the removal of curb parking, as well, which will further worsen the parking shortage in the area.

It is a foregone conclusion that Safeway cannot or should not solve the parking problems in Adams-Morgan, but neither should it exacerbate the situation by eliminating all accessory parking. DOT recognizes that parking relief is needed. If the parking shortage can be remedied off-site, on-site parking would not be necessary.

DOT is willing to explore means of supplying the off-site parking, but this will require time. In this light it is DOT's recommendation that a continuation of this case be ordered to enable us, along with the applicant and other business and community interests, to determine the potential of providing a parking facility that would serve not only the Safeway store but the other Adams-Morgan businesses as well."

18. In a subsequent memorandum, dated September 17, 1979, the DOT reported that the revised proposal of Safeway, Inc., to include an underground parking garage and tractor-trailer size loading berth at the expanded Columbia Road store, will conform to the Zoning Regulations for parking and also dissipates the previous objections as stated in the Departments position of August 29, 1979. The DOT endorsed both the loading and parking accommodations as now proposed by the applicant.

19. There were many letters in support of the application, as originally filed, based on the need for the store in the community. There were many letters on file from citizens groups, business associations and individual residents in opposition to the application as originally filed, based on the traffic impact if no parking spaces would be provided by Safeway. There was opposition at the public hearing of the application, as amended, from a resident living on Ontario Road. The resident objected to the loading dock being located on the ten foot alley side since the rear yard of his premises would face the loading dock and the proposed addition. The resident also objected to the continuance of the high Safeway sign tower above the existing store.

20. Advisory Neighborhood Commission - 1C, by letter dated November 5, 1979, reported that it had requested, on August 20, 1979, a continuance of this case, in order to facilitate negotiations with Safeway. The ANC request largely focused on the parking issue, which, fortunately, has now been resolved quite satisfactorily following discussions between the Office of Planning and Development, the Department of Transportation, and Safeway. The ANC was thankful to all parties concerned for this resolution. The ANC voted to support the remaining variances, although the ANC desired a full exploration of the loading dock-parking entrance design considerations at hearing in order to ascertain the impact on Columbia Road traffic and adjacent properties at the isde of the proposed dock which are in part residentially used also. In general, ANC believed the parking to be a more important point than that of the loading dock and so arrived at a position of support for the variance for one loading dock.

The ANC did note its concern over the appearance of the facade of the store, which was raised in the August letter. The design problem is that the new store, a major feature of the square, will essentially look like a warehouse with its square box appearance and front loading dock. The front line of the store should be varied some way and the loading dock, if it must be at the front, should be blended as much as possible into the facade.

The Board notes that at the public hearing, Safeway testified in response to the ANC's concern about design that the proposed addition now stands at its maximum feasible dollars and changes to the facade. As to the issue of design, the Board now states that it has no authority to order an applicant to redesign its store solely on the basis of aesthetics. However, the Board would encourage Safeway to use some imagination and demonstrate its good will be responding to this concern of the ANC. The Board also notes that Safeway testified that it would eliminate the current tower sign and that any new sign would not project above the roof.

21. Based on the record, the Board finds that the opposition to this application was based primarily on the traffic impact that would be created if the applicant was to provide no parking spaces at all for its proposed addition to the existing store. Since the applicant is now proposing twenty-seven spaces in an underground parking lot and seven spaces in the rear of the addition and is promoting a proposal for its employees to use public transportation, the traffic impact issue has been ameliorated.

CONCLUSIONS OF LAW:

Based on the record, the Board concludes that the applicant is seeking area variances, the granting of which requires a showing of some exceptional or extraordinary condition stemming from the property itself which creates a practical difficulty for the owner. The Board concludes that the size and location of the property create the practical difficulty. Half of the subject lot is improved with the existing store. The other half will be improved with the proposed addition and an underground parking lot. As found in Findings Nos. 6 and 12 the applicant would have difficulty in obtaining a new site on which to expand. The rear yard variance of 1.5 feet is minimal. The present structure was built in 1950 prior to the current Zoning Regulations. It is 13.5 feet from the rear property line. In order to keep the rear of the building symmetrical and constant the proposed addition should also conform. Also, as in Finding No. 13, compliance with the rear yard requirements would result in a loss of usable space.

As to the loading berth variance, the Board concurs with the DOT recommendation as stated in Finding No. 18. It also notes its Finding No. 14. The Board further concludes that the variances can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan. Accordingly, it is ORDERED that the application as amended is GRANTED.

VOTE: 4-0 (William F. McIntosh, Charles R. Norris, Walter B. Lewis and Leonard L. McCants to GRANT; Connie Fortune not voting, not having heard the case).

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 MAR 1980

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.