

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13886, of Sylvia Kotz, pursuant to BZA Order No. 13008, dated March 17, 1980, for a review of condition "b" of said Order, namely a re-evaluation of the effectiveness of the truck loading procedures at the Safeway store in a C-2-B District at the premises 1701 Corcoran Street, N.W. (Square 155, Lot 23).

HEARING DATE: January 12, 1983
DECISION DATE: February 2, 1983

FINDINGS OF FACT:

1. The subject site is located at the northwest corner of the intersection of 17th and Corcoran Streets, N. W. and is known as 1701 Corcoran Street, N.W. Safeway Stores, Incorporated, hereinafter referred to as Safeway, operates a retail grocery store on the site and uses the property pursuant to a lease from the owner, Sylvia Kotz.
2. On March 8, 1979, the Zoning Commission granted the application of Sylvia Kotz and Safeway and rezoned a portion of the subject site formerly used as a parking lot from R-5-B to C-2-A. By order dated June 14, 1979, the entire lot 231, including the building and parking lot, were rezoned to C-2-B.
3. On March 17, 1980, the Board of Zoning Adjustment issued Order No. 13008 granting approval of an application by Safeway and Sylvia Kotz for variances from the rear yard and parking requirements and release of a covenant to provide parking. The variances were granted to permit Safeway to expand its store on the area of the parking lot.
4. The Board's order was subject to the following conditions:
 - a. Safeway shall schedule truck deliveries to the store in a manner such that the number of trucks present does not exceed the capacity of available loading areas. To that end, Safeway shall allow no more than one Safeway truck at a time to be present at the store. Further, Safeway shall assign to each direct delivery vendor a delivery time consisting of a two hour interval on particular days. A vendor shall be permitted to deliver

at any time during that interval, but the delivery interval will be staggered throughout the day.

- b. Approval shall be for a period of eighteen months following the issuance of a Certificate of Occupancy to operate the expanded store. The applicant shall re-apply to the Board prior to the expiration of this approval so that the Board may reevaluate the effectiveness of the truckloading procedures.

5. The expanded Safeway store was completed in June, 1981, in accordance with plans previously approved by the Board.

6. The new building provides a fourteen foot by forty-five foot loading dock which is located in the northeast corner of the expanded store with an entrance on 17th Street. The loading dock provides space for one Safeway truck or two non-Safeway, independent, direct-delivery vendor trucks at one time.

7. The loading dock is contained within the building and is separated by a wall from the alley which abuts the north side of the store.

8. The store also has a sixty-four foot loading zone on the west side of 17th Street directly in front of the entrance to the store. That zone provides space for three direct-delivery vendor trucks or one Safeway truck at one time.

9. Corcoran Street is a one-way street going east and 17th Street is a one-way street going south. There is a stop sign controlling traffic at the corner of 17th and Corcoran Streets. There are traffic lights controlling the intersections of 17th Street one block north and one block south of the subject site.

10. Safeway trucks approach the store from 17th Street and the trucks back into the loading dock from the lane containing the loading zone or in the lane parallel to the loading zone. It takes less than five minutes to back a Safeway truck into the loading dock. No trucks use the alley which is located north of the store.

11. Both Safeway trucks and independent direct-delivery vendor trucks make deliveries to the store pursuant to a schedule implemented by Safeway as required by the Board's order of March 17, 1980. Three Safeway trucks are currently assigned times to deliver to the store in the morning at 6:00 A.M., 6:30 A.M. and 8:00 A.M. One Safeway truck is scheduled to deliver at 4:00 P.M. Safeway trucks take from one-half hour to two hours to complete their deliveries.

Those trucks taking the longest times to complete deliveries are assigned delivery times far apart on the schedule.

12. Direct delivery vendors are scheduled to deliver to the store between 7:00 A.M. and 4:30 P.M. Each vendor is assigned a half-hour interval, but deliveries are accepted at the store within two hours of the designated half-hour time period. Only two direct delivery vendors are scheduled for any one-half hour time period. The average delivery time for a direct delivery vendor is fifteen minutes to one-half hour.

13. Safeway's policy is to accept deliveries from trucks at the scheduled time. Safeway enforces this policy by refusing to accept deliveries from trucks which arrive at times when the capacity of the loading zone and the loading dock is insufficient to accommodate the delivery. Safeway does not accept deliveries from trucks parked on Corcoran Street.

14. It is Safeway's policy not to permit vendors delivering to other retail establishments near the store to use Safeway's loading areas for those deliveries.

15. Safeway has instituted new operational policies to facilitate deliveries at this store. The total number of deliveries by Safeway trucks has been reduced by its policy of sending trucks containing mixed loads of different types of merchandise rather than the usual policy of using one truck for each type of merchandise. Safeway also stocks its shelves during the night so that the limited storage capacity of the store can be fully utilized for accepting deliveries during the day.

16. The Department of Transportation, by memorandum dated December 27, 1982, reported that at the time of the original application in 1979, the DOT was concerned about the loading berth shown on the proposed site plan because a tractor trailer docked on this berth would extend twenty feet into the sidewalk area. The loading facility was revised before that application was approved to incorporate a twelve foot by forty-five foot berth entirely on Safeway property. The DOT reported that Sheet No. 4 dated November 30, 1979, showing the size and location of the loading facility is satisfactory for the operation of the store. The Board concurs with the DOT recommendation.

17. Advisory Neighborhood Commission 2B made no recommendation on the application.

18. William L. Wood and Bruce Grossman were the only persons to testify in opposition to the application. Mr. Wood does not live in the area, but owns property in the area of the subject site. Mr. Grossman is a Maryland

resident and an employee of Mr. Wood. They testified that independent direct-delivery vendors double-park their trucks on 17th Street and Corcoran Street near the store. The trucks are not using assigned areas for pick-up and delivery. The trucks are parking on the south side of Corcoran Street and on the west sidewalk of 17th Street. The double parking on 17th Street hampers the flow of traffic heading south. Parking on Corcoran Street blocks the right of way for fire engines. The opposition also had a list of grievances concerning other conditions imposed in the last Order of the Board. The Chair advised that the subject hearing was limited to condition "b" of said Order. If there are other grievances, they should be referred to the office of the Zoning Administrator for enforcement procedures.

19. In rebuttal, Safeway testified that it instructs direct delivery vendors serving the Safeway store not to double-park on 17th Street or Corcoran Street. When the store manager sees the vendors double-parking, he instructs them to move their truck immediately and further enforces Safeway's policy by reporting the vendors to their supervisors. Safeway cooperates with the Department of Transportation and the Metropolitan Police Department and requests that the vendors who double-park near the store be ticketed.

20. The Safeway store is located in a commercial strip along 17th Street which contains numerous small businesses which also receive direct deliveries from independent vendors. Safeway witnesses also testified that, although Safeway enforces its policy against double-parking against direct-delivery vendors serving the Safeway store, the other retail establishments in the immediate vicinity of 17th and Corcoran Streets receive deliveries from direct-delivery vendors who are not related to Safeway in any way.

21. There were no other written or oral objections to the application.

CONCLUSIONS OF LAW AND OPINIONS:

Based upon the record, the Board concludes that the conditions imposed upon the variances granted in BZA Order No. 13008 would have improved the effectiveness of the loading procedures at the Safeway store at 1701 Corcoran Street, N.W. if they had been effectively carried out. The relocation of the loading dock with its entrance on 17th Street, N.W. has improved the maneuverability of the trucks into the loading dock and the speed of deliveries to the store. No blockage of the alley or the area to residences on the alley results from deliveries.

The Board is of the opinion that Safeway has attempted to comply with those conditions to schedule deliveries from

both Safeway and independent direct-delivery vendors at appropriate intervals throughout the day. The Board, however, finds that Safeway has failed to institute an effective, active monitoring program during the critical periods of delivery. It is not sufficient to have a person run into the store and get the store manager or to rely on the citizens to police the area. The Board concludes that an aggressive, consistent and serious effort must be made by Safeway to assure that the loading program requirements are met. While such an aggressive program may be highly unusual for a Safeway store, the site is a highly unusual location and a highly desirable location for Safeway.

In addition, Safeway is asking the Board to grant permanent approval of the variances, with no further BZA review. In order to be able to do this, the Board must impose specific and stringent requirements that are clearly understood and capable of being enforced. Accordingly, the Board will insist upon a more specific and stringent program for deliveries to the store, and will so condition the grant of this application. It is therefore timely ordered that the permanent approval be granted to the variances from the rear yard and parking requirements of the Zoning Regulations SUBJECT to the following CONDITIONS:

- a. No more than four Safeway trucks per day shall make deliveries to the store. No more than one such truck shall be present at the store at any one time. Deliveries to the store shall take place between the hours of 6:00 A.M. and 10:00 A.M., and 4:00 P.M. and 6:00 P.M. No more than three trucks may deliver in the morning hours and no more than one truck may deliver in the afternoon.
- b. Direct delivery vendors shall be scheduled to deliver to the store between the hours of 7:00 A.M. and 4:30 P.M. Each vendor shall be assigned a half-hour interval, but deliveries may be accepted at the store within two hours of the designated half-hour time period. No more than two direct delivery vendors shall be scheduled for any one-half hour time period.
- c. Safeway's policy shall be to accept deliveries from trucks only at the scheduled time. Safeway shall enforce this policy by refusing to accept deliveries from trucks which arrive at times when the capacity of the loading zone and the loading dock is insufficient to accommodate the delivery. Safeway shall not accept deliveries from trucks parked on Corcoran Street.

VOTE: 5-0 (John G. Parsons, Carrie L. Thornhill, William F. McIntosh, Douglas J. Patton and Charles R. Norris to grant).

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

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

FINAL DATE OF ORDER: APR 11 1983

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.

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