

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 14296, of Peter D. Roushakes, Trustee, pursuant to sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 7106.11 to continue to use the subject premises as a nonconforming use, a delicatessen, in an SP-2 District at premises 420 I Street, N.W., (Square 516, Lot G).

HEARING DATE: June 12, 1985

DECISION DATE: June 12, 1985 (Bench Decision)

FINDINGS OF FACT:

1. The subject property, known as 420 I Street, N.W., is located on the south side of I Street between 4th Street to the east and 5th Street and Massachusetts Avenue to the west. It is zoned SP-2.

2. The site is rectangular in shape and has a frontage along I Street of twelve and one-half feet and a depth of seventy-four feet. The property is improved with a one story cinder block structure.

3. In Order No. 13136, dated April 7, 1980, the Board granted the applicant permission to use the subject property as a delicatessen for a period of five years.

4. Paragraph 7106.11 of the Zoning Regulations, in pertinent part, provides that a nonconforming use may be changed to a use which is permitted as a matter-of-right in the most restrictive district in which the existing nonconforming use is permitted as a matter-of-right, provided that:

- A. The proposed use will not adversely affect the present character or future development of the surrounding area in accordance with the Zoning Regulations. The surrounding area encompasses the existing uses and structures within at least 300 feet in all directions from the nonconforming use.
- B. The proposed use will not create any deleterious external effects, including but not limited to noise, traffic, parking and loading considerations, illumination, vibration, odor, and design and siting effects.

- C. The Board may require the provision of or direct changes, modifications, or amendments to any design, plan, screening, landscaping, type of lighting, nature of any sign, pedestrian or vehicular access, parking and loading, hours of operation, or any other restriction or safeguard it may deem necessary to protect the value, utilization, or enjoyment of property in the neighborhood.
5. Both the prior use of general offices and the existing delicatessen use are first permitted in a C-1 District.
6. The owner has leased the property for the past five years on a year to year basis. The lessee proposes to continue operating a delicatessen on the site in the same manner that she has been for the past five years.
7. Directly north of the site on the opposite side of I Street is a government office building in the C-2-C district. Adjacent to the west side of the site is a vacant lot and to the east, a private alley. There are two auto repair shops in the on the same side of the street as the subject site.
8. The hours of operation are from 7:00 A.M. to 7:00 P.M. Monday through Friday.
9. There is no seating provided in the structure. All business is on a carry-out basis.
10. Trash is picked up twice weekly from the site. The premises are maintained by the lessee on a daily basis.
11. The delicatessen primarily serves the surrounding community. Most customers walk to the site from the neighboring offices and business.
12. In the past five years the lessee has received no complaints about the delicatessen's manner of operating from the site.
13. There was no report from Advisory Neighborhood Commission 2C on this application.
14. There was no opposition to the granting of this application.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant is seeking a special exception, the granting of which requires a showing through substantial evidence that

the applicant has complied with the requirements of Paragraph 7106.11 and that the relief requested under Sub-section 8207.2 can be granted as in harmony with the general purpose and intent of the Zoning Regulations and will not tend to affect adversely the use of neighboring property. The Board concludes that the applicant has met the burden of proof. The use provides a convenient service for the day-to-day needs of a small tributary area, with a minimum impact upon surrounding development. The use is permitted as a matter-of-right in the most restrictive district in which the previous general office use is permitted as a matter-of-right. The Board concludes that the use constitutes a neighborhood facility which will not adversely affect the present character or future development of the area. Accordingly, it is ORDERED that the application is GRANTED, SUBJECT to the CONDITION that approval shall be for a period of FIVE YEARS from the date of expiration of the previous certificate of occupancy, namely from April 7, 1985.

VOTE: 3-0 (Patricia N. Mathews, William F. McIntosh, and Charles R. Norris to grant; Carrie L. Thornhill and Douglas J. Patton not present, not voting).

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

ATTESTED BY:

  
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STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER:

24 JUL 1985

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 CONSUMER AND REGULATORY AFFAIRS.

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