

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14500 of Vasilis N. and Rigo V. Peros, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 7106.11 to change a nonconforming use from a restaurant/deli seating 15 persons, first floor and basement to restaurant/deli seating 35 persons, first floor and basement, in a R-4 District at premises 320 D Street, N.E., (Square 780, Lot 79).

HEARING DATES: December 10, 1986 and February 11, 1987
DECISION DATE: March 4, 1987

FINDINGS OF FACT:

1. The subject case was originally scheduled for public hearing on December 10, 1986. During the course of the public hearing, the Board was made aware that proper notice was not mailed to property owners within 200 feet of the site or to the Advisory Neighborhood Commission. The Board continued the case to its public hearing of February 11, 1987 so that proper notice could be given.

2. The property is located on the north side of D Street between 3rd and 4th Streets and is known as premises 320 D Street, N.E. It is zoned R-4.

3. The site is flat and rectangular in shape with a lot area of approximately 2,335 square feet.

4. The property is currently improved with a three-story plus basement brick row structure. The second and third stories of the building are used for residential apartments. The first floor is used as a restaurant/deli seating fifteen persons with storage in the basement pursuant to Certificate of Occupancy No. B-145282 dated May 1, 1986.

6. The site abuts residentially occupied row dwellings to the east and west, and is separated by D Street from row dwellings and an office use in the C-2-A District. There are several other community establishments nearby including a liquor store, restaurants and a dry cleaner. The site has had a history of commercial use dating back to 1949 and is within seventy-five feet of the C-2-A District along Massachusetts Avenue, N.E.

7. D Street carries two-way traffic with restricted two-hour neighborhood permit parking. The site is located

approximately three blocks from the Union Station Metro station.

8. The majority of the restaurant's customers are area residents or persons employed in the immediate area who walk to the site. The use is not a "destination restaurant" that attracts vehicular traffic.

9. The seating area of the restaurant is approximately 144 square feet. The lessee has been limited to using bench seating affixed to the walls for customer seating. If the lessee is permitted to add chairs, the seating area can accommodate thirty-five persons comfortably and will permit diners to sit facing one another instead of side-by-side.

10. The record contains a petition and several letters in support of the granting of the subject application.

11. The Office of Planning, by memorandum dated November 21, 1986, recommended approval of the application. The OP was of the opinion that, given the operation of the facility without adverse impact, the small scale of the facility, and its status as a neighborhood facility, the increased seating will not cause any adverse impact on the surrounding area. The Board concurs with the recommendation of the OP.

12. Advisory Neighborhood Commission 6A made no recommendation on the subject application. A Single Member District Commissioner, by letter dated December 10, 1986, expressed concern regarding the increased intensity of a nonconforming use in a residential district.

13. There was opposition to the application present at the public hearing. The record contains several letters from area residents, the Stanton Park Neighborhood Association, and the Capitol Hill Restoration Society in opposition to the application.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and the evidence of record, the Board concludes that the applicant is seeking a special exception, the granting of which requires compliance with the requirements of Paragraph 7106.11 of the Zoning Regulations and that the requested relief can be granted as in harmony with the general purpose and intent of the Zoning Regulations and will not adversely affect the use of neighboring property. The Board concludes that the applicant has met the required burden of proof. The use of the facility will not be changed. The nonconforming use history of the structure predates the 1958 Zoning Regulations. The Board concludes that the proposed increase in seating, as hereinafter conditioned, will not adversely affect the present use

or future development of the area. There has been no abandonment of the nonconforming use of the premises. The Board concludes that the use is a neighborhood facility. The size, nature and character of the use is designed to serve walk-in trade from the immediate area and will not attract clientele from other parts of the District and metropolitan area.

The Board further concludes that the proposed use will not adversely affect the neighborhood and will be in harmony with the general purpose and intent of the Zoning Regulations and map. Accordingly, it is hereby ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:

1. The operation of the facility shall be limited to the lessee, Olympic Pizza, Inc.
2. The restaurant use shall be limited to the first floor with storage only in the basement.
3. The seating provided on the premises shall not exceed thirty-five.
4. The hours of operation shall not exceed from 11:00 A.M. to 10:00 P.M., seven days a week.
5. The facility shall meet all the requirements of the D.C. municipal regulations.
6. The area adjacent to the facility shall be kept free of refuse and debris.
7. There shall be no illuminated or neon signs on the exterior of the premises.

VOTE: 3-0 (William F. McIntosh, Maybelle T. Bennett and Paula L. Jewell to grant; Charles R. Norris and Carrie L. Thornhill not voting, not having heard the case).

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

ATTESTED BY:


EDWARD L. CURRY
Acting Executive Director

FINAL DATE OF ORDER: APR 3 1987

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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