

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14812, of Charles Smith, pursuant to 11 DCMR 3108.1 and 3107.2, for special exception under Section 2003 to change a nonconforming use, retail grocery and deli, to a grocery store, or in the alternative, a variance from the use provisions (Sub-section 330.5) to establish a grocery store, first floor, in an R-4 District at premises 523 M Street, N.E., (Square 829, Lot 42).

HEARING DATE: June 15, 1988
DECISION DATE: June 15, 1988 (Bench Decision)

SUMMARY ORDER

The site of the application is located in Advisory Neighborhood Commission ("ANC") 2C, which is automatically a party to the application, did not file a written statement of issues and concerns.

The Board duly provided timely notice of the public hearing on this application, by publication in the D.C. Register, and by mail to ANC 2C and to owners of property within 200 feet of the site.

As directed by 11 DCMR 3324.2, the Board has required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for a special exception pursuant to 11 DCMR 2003. No person or entity appeared at the hearing or otherwise requested to participate as a party in this proceeding. Accordingly, a decision by the Board to grant this application would not be adverse to any party. Based upon the record before the Board, the Board concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3108, and that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and maps. The Board need not consider the variance which the applicant has requested as an alternative because it believes the applicant is entitled to relief in the form of a special exception. It is therefore ORDERED that the application is granted, subject to the following CONDITIONS:

1. The hours of operation shall not exceed from 9:00 A.M. to 9:00 P.M. daily.

2. The number of staff shall not exceed two full-time and two part-time employees.

Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.3 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is not prohibited by law.

VOTE: 5-0 (Elliott Carroll, Paula L. Jewell, William F. McIntosh, Charles R. Norris and Carrie L. Thornhill to grant).

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

ATTESTED BY:


EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: JUL 25 1988

UNDER 11 DCMR 3103.1, "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.

14812order/LJP40

GOVERNMENT OF THE DISTRICT OF COLUMBIA
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APPLICATION No. 14812

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a copy of the Order of the Board in the above numbered case, said Order dated JUL 25 1988, has been mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Charles Smith
523 M Street, N.E.
D.C. 20002

Clarene Martin, Chairperson
Advisory Neighborhood Commission 2-C
Garrison Elementary School
1200 S Street, N.W., Suite 202
Washington, D. C. 20009


EDWARD L. CURRY
Executive Director

DATE: JUL 25 1988