

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14840 of Hee K. Ryu and Yun Hai Fogleman, pursuant to 11 DCMR 3108.1, for a special exception under Section 2003 to change a nonconforming use, a grocery store, to a grocery store and delicatessen, first floor, in an R-4 District at premises 1245 - 5th Street, N.W., (Square 513, Lot 98).

HEARING DATE: July 26, 1988
DECISION DATE: July 26, 1988 (Bench Decision)

SUMMARY ORDER

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.

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

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 public hearing in opposition to the application or otherwise requested to participate as a party in opposition to 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 3108.1, 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. It is therefore ORDERED that the application is GRANTED, SUBJECT to the following CONDITIONS:

1. The use of the premises as a grocery/delicatessen shall be limited to the first floor only.

2. The hours of operation shall not exceed from 8 A.M. to 9 P.M., Monday through Saturday and from 8 A.M. to 7 P.M. on Sunday.

3. The number of employees shall not exceed five.

4. Trash pick-up and deliveries shall be scheduled to occur between the hours of 3 P.M. and 4 P.M.

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: 3-0 (Elliott Carroll, William F. McIntosh, and Paula L. Jewell to grant; Charles R. Norris and Carrie L. Thornhill not present, not voting).

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

ATTESTED BY:


EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: SEP 16 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.

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