

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No, 15633 of Safeway Stores, Inc., as amended, pursuant to 11 DCMR 3108.1, for a special exception under Section 215 to continue to operate an accessory parking lot in an R-1-B District at premises 3725-39 Morrison Street, N.W., (Square 1867, Lot 93).

HEARING DATE: March 11, 1992
DECISION DATE: March 11, 1992 (Bench Decision)

SUMMARY ORDER

The applicant amended the application to correctly designate the owner of the subject property. The application was originally filed with the Estate of Victor O. Schinnerer as the owner. Safeway Stores, Inc. later determined that it is, in fact, the fee simple owner of Lot 13.

The Board duly provided timely notice of public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 3G and to owners of property within 200 feet of the site.

The site of the application is located within the jurisdiction of ANC 3G. ANC 3G, which is automatically a party to the application, submitted issues and concerns in support of the application by letter dated March 3, 1992.

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 215. 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, and that the requested relief can be granted as in harmony with the general purpose and intent of the Zoning Regulations and Map and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. It is therefore **ORDERED** that the application is **GRANTED**, **SUBJECT** to the following **CONDITIONS**:

1. Approval shall be for a period of FIVE YEARS from the date of this order.

2. The applicant shall comply with the agreement dated June 16, 1976, between Safeway Stores, Inc. and the Upper Connecticut Avenue Betterment Association marked as Exhibit No. 28 of the record in BZA Application No. 14637.
3. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an all-weather impervious surface.
4. No vehicle or any part shall be permitted to project over any lot or building line or over the public space.
5. All parts of the lot shall be kept free of refuse or debris and shall be paved or landscaped. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance.
6. The applicant shall plant a hedge of eye-level evergreen trees, Canadian hemlocks or another similar low-maintenance evergreen growing no taller than 15 feet along the south side of the lot bordering Morrison Street to provide screening for residents who can see the lot from their homes.
7. The applicant shall provide parking for its employees and shall discourage employee parking on Morrison Street at all times.
8. The applicant shall vigorously enforce its own stated and posted policy of not allowing (a) commuters to park all day in the lot while taking public transportation downtown; and (b) other people to park their cars in the lot while shopping elsewhere and attending the theater and restaurants.
9. The applicant shall pick up daily all debris on the property, in the alley which adjoins the property on the north side, and the area between the brick wall of the parking lot and the curb along Morrison Street.

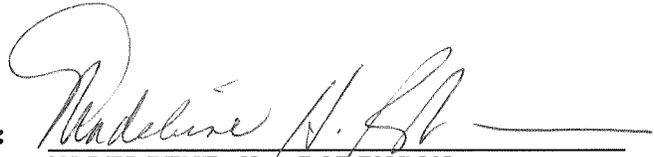
Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.3 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is not prohibited by law.

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VOTE: 5-0 (Paula L. Jewell, Maybelle Taylor Bennett, Angel F. Clarens, Sheri M. Pruitt and Carrie L. Thornhill to grant).

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

ATTESTED BY:



MADELIENE H. ROBINSON
Acting Director

MAR 31 1992

FINAL DATE OF ORDER: _____

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

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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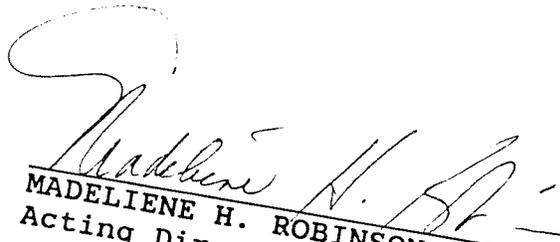
BZA APPLICATION NO. 15633

As Acting Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on MAR 31 1992 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

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Public Affairs Manager
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Robert Diamond, Chairperson
Advisory Neighborhood Commission 3G
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MADELIENE H. ROBINSON
Acting Director

MAR 31 1992

litt/bhs