

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 16310 of ANSCO, Inc., as amended, pursuant to 11 DCMR 3108.1, for a special exception under Section 2003 to continue to operate a retail grocery and delicatessen with no seats, approved under BZA Order No. 15959, on the first floor of an existing structure in an R-4 District at premises 301 P Street, NW (Square 521, Lot 1).

HEARING DATE: March 4, 1998
DECISION DATE: March 4, 1998 (BENCH DECISION)

SUMMARY ORDER

The application was originally advertised as a variance from the use provisions of Subsection 330.5 to allow the use noted above. At the hearing, the Board determined that the current nonconforming use of the site had not discontinued and that the application could be heard as a special exception. Since the special exception is a lesser form of relief than the use variance originally advertised, the Board determined that adequate notice had been provided.

The Board provided proper and timely notice of public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 5C and to owners of property within 200 feet of the site.

At the hearing, the Board waived the 14-day filing requirement to allow the applicant to file further submissions in support of the application.

The site of this application is located within the jurisdiction of ANC 5C. ANC 5C, which is automatically a party to this application, requested a waiver of the Board's Rules to allow for the submission of a late report. The Board waived its Rules and the ANC submitted a written statement of issues and concerns in support of the amended 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 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, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of

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neighboring property in accordance with the Zoning Regulations and Map. It is therefore **ORDERED** that this application be **GRANTED, SUBJECT** to the following **CONDITIONS**:

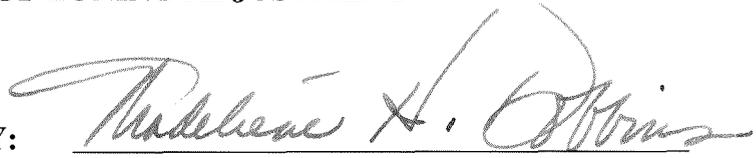
1. Approval shall be for a period of three years.
2. The days and hours of operation shall be seven days per week, from 8:00 a.m. until 8:00 p.m.
3. Trash shall be collected from the premises by a private trash removal company on Monday, Wednesday and Friday of each week;
4. The applicant shall keep the premises and the surrounding property free of litter and debris;
5. The applicant and operator of the store shall do everything within their legal authority to discourage and prevent loitering on and around the premises;
6. Neither the applicant nor the operator of the store shall initiate or participate in any effort to locate a public payphone on the exterior of the property;
7. A maximum of three employees shall operate the store.
8. The store shall be operated primarily as a grocery store. The use as a delicatessen shall be limited to the sale of coffee, donuts and prepackaged sandwiches.
9. The applicant shall do one of the following: a) eliminate the signs on the store windows that advertise and promote alcohol and tobacco products, or b) substantially reduce the size and limit the number of such signs.

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 appropriate in this case.

VOTE: 3 - 0 (Susan Morgan Hinton, Sheila Cross Reid and Betty King to grant; Laura M. Richards not present, not voting).

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

ATTESTED BY:


MADELIENE H. DOBBINS
Director

FINAL DATE OF ORDER: _____

MAR 18 1998

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 TWO YEARS 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.

Ord.16310/TWR

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As Director of the Board of Zoning Adjustment, I hereby certify and attest that on MAR 18 1998 a copy of the order entered on that date in this matter was mailed first class postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Bernard C. Dietz, Esquire
1001 Connecticut Avenue, N.W., Suite 219
Washington, D.C. 20036

ANSCO, Inc.
301 P Street, N.W.
Washington, D.C. 20001

Eun Hee Lee
Young Whan Lee
221 Amberleigh Drive
Silver Spring, Maryland 20904

James D. Berry, Jr.
Chairperson
Advisory Neighborhood Commission 5C
1723 Third Street, N.E.
Washington, D.C. 20002

A handwritten signature in cursive script, reading "Madeliene H. Dobbins".

MADELIENE H. DOBBINS
Director

DATE: MAR 18 1998