Before the Board of Zoning Adjustment, D.C.

PUBLIC HEARING - November 8, 1972

Application No. 11178 - Benjabe Weldman, appellant

THE ZONING ADMINISTRATOR OF THE DISTRICT OF COLUMBIA, appellee

On motion duly made, seconded and carried by a vote of 4-1, with Mr. Mackey absent, the following Order of the Board was entered at the meeting of December 12, 1972.

ORDERED:

That the application for permission to change a non-conforming use from grocery store to grocery store and delicatessen at 434 Shepherd Street, N.W., lot 79, Square 3237, be DENIED.

FINDINGS OF FACT:

1. The subject property is located at 434 Shepherd Street, N.W., and is in an R-4 District which is defined by the Zoning Regulations as an area of row dwellings and conversions.

2. The present use of the subject property is as a retail grocery store which occupies the first floor.

3. The applicant proposes an enlargement of this non-conforming use to a delicatessen, as to the first floor only. This change will result in primarily a carry-out establishment.

4. This application is submitted pursuant to Section 7104.2 of the Zoning Regulations which authorizes this Board to permit the above enlargement only upon a finding that the proposed enlargement will not be offensive to the neighborhood and upon a showing that the proposed use is of a less intense nature than the prior use.

5. It is the applicant's intent to remodel the entire store to facilitate the proposed delicatessen.

6. Strong opposition to this application was submitted to the file in form of petitions from neighboring property owners. In essence the opposition protested the threat of loitering, litter and other by-products of a carry-out establishment.

BZA
Case No. 16880
Exhibit No. 22
Board of Zoning Adjustment
District of Columbia
CASE NO.16880
EXHIBIT NO.22

OPINION:

The Board is of the opinion that the proposed enlargement of the non-conforming use, herein, is not of a less intensive use than the prior use. It is in keeping with the policy of law and the spirit of zoning that non-conforming uses are to be restricted and eventually terminated. Since the adoption of this policy by the Board enlargement or structural alteration only to a specified extent are valid and strictly limited, and thus strictly construed agains tthe applicant if the standards are not met.

In the present case, we are in accord with the opposition, the continued threat of loitering and littering which so often accompanies carry-out establishments will be checked by this Board.

We are of the opinion that this use will have an adverse affect upon the present character and future development of the neighborhood and will substantially impair the purpose, intent or integrity of the Zoning Regulations and Maps.

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

ATTESTED

By: George A. Grogan

GEORGE A. GROGAN
Secretary of the Board

March 14, 1973