

Exhibit B

BZA Precedent Deli Cases

The BZA has heard three other cases in this area of Georgetown applying for variances to open a deli. In each case the Board of Zoning denied the relief being sought.

1. **BZA 12848: 1300 35th St NW:** application for a special exception to change a non-conforming use from a tailoring shop to a delicatessen in an R-3 District on the first floor of the premises. Residents submitted a petition stating amongst other issues: that the proposed "New York Style" delicatessen would be offensive and disruptive to the general character of the neighborhood for the following reasons:

(a) There would be an objectionable increase in vehicular traffic in this residential neighborhood:

1. Commercial delivery vehicles with no loading facilities would encroach on surrounding residential properties;
2. Parking and double parking would increase in an already congested area;
3. Early hour wholesale delivery and trash pick-up would cause excessive noise and vibrations in the area.

(b) There would be an increase in pollution throughout the neighborhood from:

1. Vehicular fumes;
2. Customer litter in pedestrian areas;
3. Delicatessen garbage and trash;
4. Noise - at all hours ;
5. Food, waste and cooking odors.

(c) There would be an increase in restaurant-associated filth-attractive to roaches, rodents, vermin and stray animals, etc.

The petition further stated that the proposed delicatessen would provide no needed service to the neighborhood. There are delicatessens and other similar type facilities within one to three blocks North, West and South of 1300 35th Street, N.W. **The Board concurs with the thrust of these objections."**

OPINION:

"The Board concludes that the general character of uses and structures existing within the immediate area of the non-conforming use are residential or of low intensity commercial activities. To grant the application would increase the amount of noise, traffic, vibration, or any other deleterious external effect which the proposed non-conforming use can reasonably be anticipated to generate or create. Lastly, the Board further concludes that under Sub-section 8207.2 the proposed use would adversely affect the neighborhood and would not be in harmony with the general purpose and intent of the Zoning Regulation's and maps. Accordingly, for all the above reasons, it is ORDERED that the application be DENIED."

2. **BZA 10588: 1332 35th Street, NW** request for non-conforming use variance to add a deli:
OPINION:

“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 Map.”

3. **BZA Hearing April 8, 1987, 1263 35th St NW.** Request for non-conforming use variance to add a deli. Record probably archived.

Long-time resident, ANC and CAG activist Karen Cruse worked closely with the community and then ANC Chairman William Cochran to oppose this application and attended the BZA hearing, April 8, 1987 at which the application was rejected. However, there is no record of this application or hearing on the Office of Zoning IZIS electronic system. A visit to the Office of Zoning and research by Mr. Robert Reid was unable to identify a case number. Mr. Reid volunteered to do further research but has yet to find any records. It is possible that said records have been sent to the archives and more time is necessary to track them down. The only reference to this application is a Washington Post report of ANC Actions posted on February 26, 1987 and retrieved from <https://www.washingtonpost.com/archive/local/1987/02/26/anc-actions/cd29f272-eb8d-4173-b67a-db8470326d80/?p9w22b2p=b2p22p9w00098>

ANC ACTIONS

Virginia Mansfield February 26, 1987

GEORGETOWN

ANC 2E will meet at 8 p.m. Wednesday at St. John's Episcopal Church Parish House, 3240 O St. NW.

The commission will consider an application to the Alcoholic Beverage Control Board for a liquor license for the Sea Catch restaurant, which the owners plan to open at 1064 31st St. NW.

The ANC will also consider a Board of Zoning Adjustment (BZA) application by Mazyar Tahoori to open a delicatessen at 1263 35th St. NW in a building zoned for commercial use.

Ms. Kruse's testimony with regard to delis in the area is worth repeating:

“Whether the relief sought is through variance or special exception, the governing principle is the same – it can only be granted where there is no detriment to the public good and it is not inconsistent with the general intent and purpose of the zoning regulations. Three times the Board has spoken definitively: a deli in this immediate neighborhood would impact negatively on the surrounding area. There is no

reason to expect that this fourth operation would have any less impact. There has been discussion that steps can be taken to minimize negative effects, for example, cordons to control lines. The prior delis did not even anticipate problems such as customers waiting in line, yet the Board still felt the deli operations would cause problems. Just the fact that mitigating measures need to be considered admits the fact that Call Your Mother is not compatible with its residential surroundings.

The 1300 block of 35th Street where Call Your Mother would be located already supports five special-exception nonconforming businesses. This is in the heart of the residential district, on a residentially zoned street. At what point does the character of a neighborhood irrevocably change when yet another commercial establishment is thrust upon it? When people buy their homes, they rely on the zoning regulations to protect their investment and preserve the quality of their lives. Many residents enjoy the livelier ambience of a commercial or mixed-use neighborhood. However, those who want a quieter existence have the right to expect that what they chose is what they will continue to have. It is a serious responsibility that those who have the power to alter this equation exercise.

In his amended application changing the request from a use to an area variance, Mr. Sullivan seeks a waiver from the regulation concerning the distance between corner stores. It would be ironic if a regulation crafted with Georgetown in mind was ignored.”

BZA Order No. 08-06A The Commission also recognized that there already existed several corner stores in the Georgetown historic district and, due to the tight proximity of the commercial corridor and Georgetown University, accepted a larger spacing of corner stores in the R-20 zone from the commercial zone.