

**BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA**

Application of
City Corner Market, Inc.

BZA Case No.
Public Hearing:
ANC 1B

APPLICANT’S BURDEN OF PROOF FOR A SPECIAL EXCEPETION

I. NATURE OF RELIEF SOUGHT

This application is submitted by Jamileh Zarkar (“Owner”) and Yin Ching Chan (“Tenant”) on behalf of City Corner Market, Inc., (“Applicant”), by its attorneys, The Veritas Law Firm, by Sidon Yohannes, Esquire and Daniel Koffman, Esquire. Applicant is a retail grocery store, located at 2601 Sherman Avenue, NW. Tenant has operated a retail grocery store at this location since May 1, 2014. The property has been used as a retail grocery store for over twenty years. Applicant, pursuant to Subtitle X, Chapter 9 of the zoning regulations, seeks a special exception under 11-U DCMR § 254 to operate a corner store for retail use with off-premises sales of beer and wine.

II. JURISDICTION

The Board has jurisdiction to grant the relief requested pursuant to 11-X DCMR § 901 and 11-U DCMR § 254.

III. APPLICATION SATISFIES SPECIAL EXCEPTION REQUIREMENTS OF SUBTITLE X § 900 AND SUBTITLE U § 254

Pursuant to Subtitle X § 901.2 of the Zoning Regulations, the Board is authorized to grant special exception relief where, in the judgment of the Board, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps, and will not tend to affect adversely the use of neighboring property, subject also, in this case, to the specific requirements for relief under Subtitle U § 254 of the Zoning Regulations.

A. REQUIREMENTS OF SUBTITLE X § 901.2

The granting of a special exception in this case “will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps” and “will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps ...” (11 DCMR Subtitle X § 901.2). Given the nature of the proposed use and satisfaction of criteria in Subtitle U § 254, Applicant will be in harmony with the purpose and intent of the Zoning Regulations and Zoning Maps, and will not adversely affect the neighboring properties.

B. REQUIREMENTS OF SUBTITLE U § 254

Applicant is in compliance with the requirements and restrictions set forth in subtitle U §§ 254.5 through 254.12 as set forth below.

§ 254.5. *The allowable total area for a corner store shall be one thousand-two hundred square feet (1,200 sq. ft.), not including cellar space, and shall be limited to the ground story and cellar or basement.*

The total area of City Corner Market, not including cellar space, is not more than 1200 square feet.

§ 254.6. *A corner store shall only be located as follows:*

(a) *On a lot that is at the intersection of two (2) generally perpendicular streets;*
Applicant is in compliance-- City Corner Markey is located at the intersection of two generally perpendicular streets, [insert street names].

(b) *Not within five hundred feet (500 ft.) of more than one (1) other lot with a corner store use defined as an eating and drinking establishment;*
Applicant is in compliance

(c) *Not within five hundred feet (500 ft.) of more than three (3) other lots with a corner store use defined as retail, general service, or arts, design, and creation uses;*
Applicant is in compliance

(d) *In the R-3, R-13, or R-17 zones, on an interior or through lot with a building that was built prior to May 12, 1958 for the purpose of a nonresidential use, as established by a certificate of occupancy, permit records or other historical documents accepted by the Zoning Administrator;*
Applicant is in an RF-1 zone.

(e) In the R-3, R-13, or R-17 zones, no nearer than five hundred feet (500 ft.) to a property line of a lot in a MU or NC zone;

Applicant is in an RF-1 zone.

(f) In the R-20 zone, on an interior or through lot with a building that was built prior to May 12, 1958, for the purpose of a nonresidential use, and only if the building was used for a corner store use within the previous three (3) years established by a certificate of occupancy, permit records, or other historical documents accepted by the Zoning Administrator; and

Applicant is in an RF-1 zone.

(g) In the R-20 zone, no nearer than seven hundred and fifty feet (750 ft.) to a property line of a lot in an MU or NC zone.

Applicant is in an RF-1 zone.

§ 254.7. *A corner store shall not be permitted: (a) On an alley lot; (b) On a lot or within a building containing more than one (1) dwelling unit or another corner store; (c) Within a building that is accessory to the principal building on the lot; (d) On an R zoned lot within Squares 1327 or 1350, 1351, 1352, or 1353 inclusive; or (e) In the R-20 zone, on an interior or through lot that has not been used for corner store uses for three (3) or more consecutive years shall not be deemed eligible for a corner store use.*

Applicant is in compliance.

§ 254.8. *There shall be no on-site cooking of food or installation of grease traps; however, food assembly and reheating is permitted in a corner store.*

Applicant will not have on-site cooking of food or installation of grease traps.

§ 254.9. *There shall be no sale of alcoholic beverages for on-site consumption in a corner store.*

Applicant does not intend to sell alcoholic beverages for on-site consumption, only off-premises sales.

§ 254.10. *All storage of materials and trash shall occur within the building area devoted to the corner store. There shall be no external storage of materials or trash.*

Applicant is in compliance.

§ 254.11. *There shall be no on-site use or storage of dry cleaning chemicals in a corner store.*

Applicant is in compliance. Applicant will not have an on-site use or storage of dry cleaning chemicals.

§ 254.12. *Only one (1) external sign may be displayed on the building's façade, provided that the sign is not illuminated and is flush-mounted.*

Applicant is in compliance

§ 254.14. *A corner store use that is not permitted as a matter of right pursuant to Subtitle U § 254.13, shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the following conditions:*

(a) *A corner store use shall be located so that it is not likely to become objectionable to neighboring property because of noise, traffic, deliveries, or other objectionable conditions;*

Applicant is located on the corner of two perpendicular streets and is not likely to become objectionable to any neighboring properties

(b) *The applicant shall demonstrate that the proposed corner store use will not detract from the overall residential character of the area and will enhance the pedestrian experience by providing within the application the following information:*

(1) *A demonstration of conformity to the provisions of Subtitle U §§ 254.5 through 254.12;* **Applicant is in compliance with the provisions of Subtitle U §§ 254.5 through 254.12 as outlined above.**

(2) *A description of proposed uses, activities, goods sold, or services rendered, including:* **Applicant is located in an RF-1 zone and currently operates as a retail grocery store with no sales of beer and wine. Applicant's proposed use is a retail grocery store with off-premises sales of beer and wine.**

(3) *Proposed size and location within the principal building;* **City Corner Market is located on the first floor and the total area, not including cellar space, is not more than 1200 square feet.**

(4) *Proposed number of employees at any one (1) time and in total;* **Applicant will have approximately two-three employees.**

(5) *Proposed hours of operation;* **The proposed hours of operation are: Sunday to Thursday from 9:30 A.M. to 9:30 P.M. and Friday and Saturday from 9:30 A.M. to 10:00 P.M.**

(6) *Proposed signage;* **Applicant's signage will remain the same and as illustrated in the application.**

(7) *Any proposed amplified music or other sound outside of the building containing the corner store use;* **Applicant will not have amplified music outside of the building**

(8) *Any outdoor seating associated with the corner store use;* **Applicant will not have any outdoor seating.**

(9) *Proposed parking number, location, and screening such that any parking shall be fully screened from all adjacent properties, streets and alleys;* **Applicant does not have proposed parking.**

(10) Proposed location of all storage; and
Applicant's storage is located in the basement.

(11) Proposed location of trash storage and method and timing for removal;
All trash storage will be located in and will be removed timely.

(c) Any alterations to the property proposed to accommodate the corner store use, including any grading changes, tree removal; or addition of retaining walls, patios, or pervious surfaces;
Applicant does not request any alterations or modifications to the property.

(d) Any modifications to the building façade, including changes to window and door openings.
Applicant will not be making any changes.

(e) The maximum sales area devoted to the sale of alcohol for off-site consumption shall be limited to a maximum of fifteen percent (15%) of the gross floor area of the ground floor of the corner store.
Applicant will be in compliance.

IV. Conclusion

For the reasons stated above, the requested relief meets the applicable standards for relief under the Zoning Regulations. Accordingly, the Applicant requests that the Board grant the Application.

Respectfully Submitted,

THE VERITAS LAW FIRM

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