

Before the Board of Zoning Adjustment, D. C.

PUBLIC HEARING -- January 12, 1972

Appeal No. 11018 Dupont Circle Citizens Association, appellant.

THE ZONING ADMINISTRATOR OF THE DISTRICT OF COLUMBIA, appellee.

On motion duly made, seconded and carried in the absence of Mr. Mackey, the following Order of the Board was entered at the meeting of May 16, 1972.

ORDERED:

That the appeal of Dupont Circle Citizens Association from a ruling of the Acting Zoning Administrator given October 13, 1971, approving a permit for a loading berth on the 19th Street side of the Washington Hilton Hotel serving an exhibition hall in the hotel, premises located at 1919 Connecticut Avenue, N. W., lot 828, Square 2535, be dismissed.

FINDINGS OF FACT:

1. The Washington Hilton Hotel is located at Connecticut Avenue, T Street, Florida Avenue and 19th Street, N. W. in the R-5-C zoning district. Hotels and their accessory uses are permitted as a matter of right in the R-5-C zone.

2. Appellant, Dupont Circle Citizens Association, filed an appeal with the Board from an approval by the Zoning Administrator, District of Columbia, given October 13, 1971, approving a proposed loading berth on the 19th Street side of the Washington Hilton Hotel.

3. The exhibition hall at the Washington Hilton Hotel was approved as part of the original building plans under the building permit issued for the Washington Hilton Hotel in 1964. The hall has existed within the hotel since the completion of construction in 1965.

4. The Board has previously determined that exhibition halls are permitted accessory uses to hotels under Section 3105.53 of the Zoning Regulations in BZA Appeal No. 9655.

5. A loading berth to the hotel is specifically permitted under Section 7302.3 of the Zoning Regulations, and the Zoning Administrator found that the loading berth complied with the Zoning Regulations.

6. Appellant's application is devoid of specific factual allegations respecting how the Zoning Administrator violated the Zoning Regulations in approving Building Permit No. B-203702 (the permit approving the loading berth). Appellant's grounds for error consist rather of a blanket citation of sections of the Zoning Regulations accompanied by the conclusion that there has been a violation. The manner in which any other Zoning Regulations may have been violated was not factually alleged and was not established in the public hearing.

7. Counsel for Hilton-Uris, Inc. T/A Washington Hilton Hotel requested this Board by motion to dismiss the application on the grounds that the application as filed did not give the Board jurisdiction.

8. No appeal from the original approval of the Washington Hilton with the exhibit hall was taken in 1965 when said uses were established.

9. No allegations were made by appellant and no facts were presented at the hearing that indicated that members of the Dupont Circle Citizens Association, either individually or as a group, were injured or harmed in any way by the approval of the loading berth by the Zoning Administrator.

10. At the public hearing on January 13, appellant was given full opportunity to state the reasons and bases for its appeal and to ask questions of the Board.

OPINION:

The Board accepts jurisdiction of the case and on proceeding to the merits decides the exhibition hall is permitted by the Zoning Regulations and by previous decisions of the Board of Zoning Adjustment,

from which it follows that the loading berth is a permitted use. The Board feels that difficulties occasioned by trucks waiting to unload for the exhibition hall do not present a case under the Zoning Regulations but under the police regulations and other provisions of the District of Columbia law, and the Police Department should take such steps as it deems appropriate to alleviate any difficulties which may occur on public space.

The appeal, the evidence and testimony of record fail to allege or to establish any specific error of the Zoning Administrator based upon the Zoning Regulations. A blanket assertion of violations will not suffice to permit the Board to grant the action sought in this appeal.

The Board has previously held in B.Z.A. Appeal No. 9731 that the three-year statute of limitations in the District of Columbia Code §12-301(8) (1967) applies to administrative appeals from decisions of the Zoning Administrator. An appeal as to the legality of the exhibition hall use is, therefore, barred by the statute of limitations.

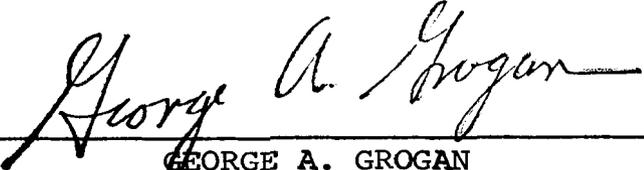
The Board is cognizant that its Rules of Procedure at the time of the hearing on this matter did not specifically provide for cross-examination, but that there was no specific request for an opportunity to cross-examine made or denied. If any person participating in this proceeding believes that he has been prejudiced by the lack of an opportunity to cross-examine, the Board is disposed to entertain a motion to reopen this case to permit cross-examination. Such a motion should be made within fifteen (15) days from the date of this final decision. The motion should identify the witnesses to be cross-examined as well as that portion of his testimony to be subjected to cross-examination. Specifically, reference to the transcript of proceedings will be helpful. Copies of the transcript are available for inspection by the public in the Offices of the Zoning Commission District Building, Room 11A, 14th and E Streets, N. W., between 8:15 a.m. and 4:45 p.m. The motion should be forwarded to the Board in care of this address. The motion should also be served upon all other persons appearing in the proceeding.

Opposition to the motion should be filed and served on all other persons to the proceeding no later than seven (7) calendar days after service of the motion.

Appeal No. 11018
Page 4

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

ATTESTED:

By: 

GEORGE A. GROGAN
Secretary of the Board

June 5, 1972