

Before the Board of Zoning Adjustment, D. C.

Application No. 11788 of Amalya Reifsneider pursuant to Section 8207.1 for a variance from the use provisions of the SP zone to establish an antiquarian book gallery with incidental sales as provided by Section 8207.11 at the premise 1310 19th Street, N.W., Lot 64, Square 115.

HEARING DATE: February 19, 1975

EXECUTIVE SESSION: ~~May~~ 27, 1975

FINDINGS OF FACT:

1. Subject premises is located in an **SP** zone.
2. Applicant operates an Antiquarian Book Gallery on the first floor of the subject premises under the trade name of "Park-Reifsneider Antiquarian Book Gallery and Museum." The basement is used for Gallery storage and the second floor is used for the library.
3. The Applicant owns the premises and the Gallery, and resides on the third floor of the premises, all floors of which are serviced by an elevator.
4. Applicant currently has approximately 9-10 visitors per day, with approximately 5 visitors making purchases, as determined from Applicant's daily journal.
5. Applicant's sales cover less than 50% of the overhead of operating the Gallery.
6. Approximately 25 percent of Gallery materials are not for sale.
7. A museum or art Gallery is permitted in the **SP** zone as a matter of right, however, a bookstore, which denotes retail sales is ~~not~~ permitted in the **SP** zone.
8. There is no evidence of record which demonstrates that the subject property cannot be used for any of the permitted uses in the SP zone.
9. The premises face a C-3-B zone. The squares to the north and to the south are zoned C-3-B. The west end of the subject square is zoned SP and developed intensely with apartment houses. The premises and adjacent premises are virtually surrounded by C-3-B zone.
10. The Gallery has the support of a close neighbor, The Columbia Historic Society (a block away) and adjacent and nearby building owners and tenants, as well as city wide support of the federation of Citizens Associations. Additionally, the local citizens association, the Dupont Circle Citizens Association, has supported the Gallery.

11. No opposition was registered in the file or at the Public Hearing.

12. The applicant did proffer evidence which demonstrated a hardship that showed that without the requested relief the subject property could not be used for any SP use.

CONCLUSIONS OF LAW & OPINIONS:

Based upon the above Findings of Fact, and the Record, the Board is of the opinion that the applicant has not carried the burden of proving the existence of a hardship to warrant the granting of a use variance as required by Section 8207.11 of the Zoning Regulations. At public hearing, none of the representations, or evidence presented by counsel related to the existence, on the subject property, of an undue hardship to the owner of the property, as a result of an exceptional or unique condition of the subject property or structure thereon. Evidence of record indicates that the owner resides on the third floor of the premises, operates a museum - gallery with retail sales on the first floor, and uses the basement for incidental storage. Therefore, the Board concludes that the property can be used for residential purposes and as a museum, such uses being permitted in the SP zone as a matter of right.

The Board is aware that this application is supported by neighborhood residents and that no opposition has been registered, however, the question of whether or not, if granted, this application would be detrimental to the public good is only one of two conclusions the Board must make in deciding any variance request.

It is the opinion of the Board, that applicant has not presented a set of facts which permit the Board to relieve applicant from strict application of the Zoning Regulations; therefore, the Board concludes, that to grant this use variance, without facts which prove the existence of an undue hardship to the applicant which would deny her of all beneficial use of the subject property, would substantially impair the meaning and intent of the Zoning Regulations and maps.

ORDERED: That applicant's request for a use variance from strict application of the Zoning Regulations, to permit a book Gallery with retail sales be and is hereby DENIED.

VOTE: 4-1 (Lilla Burt Cummings, Esq. dissenting).

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

ATTESTED BY: James E. Miller -
JAMES E. MILLER, Secretary to the Board

FINAL DATE OF ORDER: 6/16/75

BEFORE THE BOARD OF ZONING ADJUSTMENT, D. C.

Rehearing of application No. 11788, of Amalya Reifsneider, pursuant to Section 8207.1 of the Zoning Regulations for a variance from the use provisions of the SP zone, to permit an antiquarian book gallery with incidental sales, as provided by Section 8207.11 of the regulations, at the premises 1310 19th - Street, N.W., Lot 64, Square 115.

HEARING DATE: October 15, 1975

DECISION DATE: October 15, 1975

ORDER

It is hereby ORDERED that the above application be Dismissed without prejudice for failure of the applicant to prosecute the relief requested therein.

VOTE: 3-0 (Lilla Burt Cummings, Esquire and Dr. Lewis not present, not voting-)

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

ATTESTED:



JAMES E. MILLER
Secretary to the Board

FINAL DATE OF THIS ORDER:

Oct. 28, 1975