

Before the Board of Zoning Adjustment, D. C.

Appeal No. 11824, of Agnes Baker, pursuant to Sections 8207.2 and 8207.1 of the Zoning Regulations for a special exception to permit the change of non-conforming use from a tailor shop to retail sales store, as provided by Sections 7104.2 and 7109 of the regulations or in alternative, for a use variance to permit a retail store in the SP Zone, as provided by Section 8207.11, at the premises of 1214 13th Street, N. W., known as Lot 827, Square 345.

HEARING DATE: May 21, 1975

EXECUTIVE SESSION: May 27, 1975

FINDINGS OF FACT:

1. That the subject property was previously permitted to be used for commercial uses since 1927, for shoe repair shop, restaurant, delicatessen, lunch room and tailor shop.

2. The proposed use of the subject property is for a retail store, surrounded by commercial properties and apartments in SP District.

3. The evidence of record indicates that the owner purchased the property when it was a tailor shop, and was ordered by the District of Columbia government to repair same to comply with the code, and that such repairs were made for the premises to be used as a store.

4. The evidence of record indicates that in 1962 the owner permitted her son, who came out of the service to live with her above the premises, to use the premises temporarily as his dental office while he lived with her or until he could find quarters of his own, and then to continue to rent the premises as a store, never intending to abandon the use of the premises as a store.

5. The evidence of record indicates that the premises are narrow, 12 x 55 on the outside, and consisting of four (4) rooms, not more than 8½ feet wide at most, being unsuitable for an office.

6. The evidence of record indicates that the owner, with diligent efforts, unsuccessfully attempted to lease the subject property for the SP purposes for the past three and

one-half (3½) years.

7. The evidence of record indicates that the only responses to attempt to lease the property have been for a store, requests being received at least once every week for rental as a store for the past three and one-half (3½) years.

8. Evidence of record indicates that the subject property is located in the center of a commercial block of stores, adjacent on either side to a cleaning store and liquor store, and with parking lots, food stores, restaurants, tire store and funeral home and apartment buildings, being mixed commercial and residential in the one block area.

9. Affidavit of the owner indicates that the intention to maintain the subject premises as a store was never abandoned, that the premises were purchased as a store, and although permitted temporarily used by her son for his office, due to the personal relationship and without paying rent to her, the owner always intended to use the premises as a store.

10. Affidavit of the owner indicates that the premises were recently broken into, with front door lock and window broken, and that she believes the premises are in jeopardy of being vandalized, which may compel her to board them up.

11. No objection was registered to the subject application. Evidence of record includes signatures by residents and consumers of the neighborhood that a retail store is desirable in the neighborhood.

CONCLUSIONS OF LAW:

Based upon the above Findings of Fact, and the record, the Board is of the opinion that the applicant, while she allowed her son to use the premises temporarily as a dentist's office (SP use) until he could obtain other office spaces, did not intend to abandon her legal non-conforming use which existed prior to her son's occupancy of the premises.

Whereas, the neighborhood, wherein the proposed use would be located has a commercial character, the Board concludes that the proposed change, if granted, would be in harmony with other uses in the neighborhood. The Board further, concludes that the proposed use is a use that would be permitted in the most restrictive zone where the prior non-conforming use (tailor shop) is permitted and therefore the applicant complies with Section 7104.2 of the regulations. No objections having been made to this application, and based upon evidence of record that the commercial use predominate along the same side of the street where the proposed use would be located, the Board concludes that the applicant has complied with Section 7109 of the Regulations.

ORDERED:

That the above application be and is hereby GRANTED as a change of non-conforming use to permit retail sales at the subject property.

VOTE:

3-2 (Mr. Scrivener and Mr. McIntosh 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

THAT THE ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS ONLY UNLESS APPLICATION FOR A BUILDING AND/OR OCCUPANCY PERMIT IS FILED WITH THE DEPARTMENT OF ECONOMIC DEVELOPMENT WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER.