

Before the Board of Zoning Adjustment, D. C.

Application No. 11839, of Towne Investment and Management, Inc., pursuant to Section 8207.2 of the Zoning Regulations for a special exception to permit a change of non-conforming use from retail sales of ice cream and dairy products to a Real Estate Office in the R-4 zone as provide by Sections 7104.2 and 7109 of the regulations for the premises 109-11th Street, S.E., Lot D, Square 968.

PUBLIC HEARING: February 19, 1975

EXECUTIVE SESSION: February 25, 1975

FINDINGS OF FACT:

1. The property which is the subject of this application is located in the R-4 district.
2. The property is improved by a one story, one room structure.
3. Towne Investment and Management, Inc., a contracting and property development/management firm, has used the subject premises as its general office pursuant to the Order of the Board in Appeal No. 11065 (dated July 17, 1972). No certificate of occupancy was issued for that use.
4. Prior to the property's use by Towne Investment and Management, Inc., it was used as a retail store for the sale of ice cream and dairy products by High's Dairy Products Corporation.
5. The use of the premises by High's Dairy Product Corporation was authorized and existing on May 12, 1958, the effective date of the Zoning Regulations.
6. Houses on the Hill, Inc., is the contract purchaser of the subject property.
7. Houses on the Hill, Inc., proposes to use the subject premises as a real estate office. It has six employees at present, and has agreed with the Capitol Hill Restoration Society to limit the number of employees at the subject premises to eight employees. The Capitol Hill Restoration Society has approved the proposed change in use.
8. By letter to the Board dated October 30, 1974, Houses on the Hill stated its intention to keep the exterior of the subject premises in its present state and in keeping with the residential character of the neighborhood, and to comply with the regulations governing signs upon the premises.

9. The general character of the uses and structures existing within 300 feet of the subject premises is predominantly row-house residential, with some commercial uses.

10. It cannot reasonably be anticipated that the proposed office use would generate or create any adverse effects in terms of noise, traffic, and so forth, by comparison with the present existing use (as an office) and previous authorized use (a retail food and ice cream store).

11. The proposed office use would not be objectionable, and would not adversely affect the present character or future development of the neighborhood in accordance with the Zoning Regulations and the Comprehensive Plan of the District of Columbia.

12. Notice of the hearing on the subject application was duly given, in accordance with 22 D.C.R.Reg. §3.3(1972). At the public hearing there was no opposition to the granting of the application.

CONCLUSIONS OF LAW:

1. The existing use of the property is a Class II nonconforming use within the meaning of Section 7103.22 of the Zoning Regulations.

2. A Class II nonconforming use may be changed to any use permitted in the most restrictive district in which the existing nonconforming use is permitted. The most restricted district in which the use of property for the retail sale of food is permitted is the C-1 District. See Section 5101.33(1) of the Zoning Regulations.

3. Section 5101.37 permits the use of property for office purposes, as proposed in this application, in the C-1 District.

4. Accordingly, the Board has the power under Section 7104.2 to grant the requested application.

5. The Board's approval of this application is expressly conditioned upon the future conduct of the use in accordance with the standards of external effects established for a C-M District in Section 6101.5, in accordance with the requirements of Section 7109.11(c).

ORDERED: That the above application be GRANTED.

VOTE:

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

ATTESTED By:



JAMES E. MILLER
Secretary to the Board

FINAL DATE OF ORDER: **MAR 17 1975**

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.