

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 12738, of Rollins Funeral Home, Inc., pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the prohibition against making an addition to a non-conforming use (Sub-section 7107.1), from the use provisions (Section 3102) and from the off-street parking requirements (Sub-section 7202.1) to permit an addition to a funeral home in the R-2 District at the premises 4339 Hunt Place, N. E. (Square 5094, Lots 50, 51, 52, 53 and 801).

HEARING DATE: September 20, 1978

DECISION DATE: December 6th, 1978

FINDINGS OF FACT:

1. The subject property is located on the south side of Hunt Place, approximately 130 feet west of it's intersection with 44th Street, known as 4339 Hunt Place, N. E.

2. The property is topographically flat, rectangular in shape, and consists of 15,000 square feet of land area. The site is developed with a two-story brick building painted white. The site is further developed with off-street parking spaces to the west of the structure and a brick wall partially surrounding the property.

3. On the north side of the property across Hunt Place is a gas station, on the east is a liquor store, on the south across a fifteen foot wide alley are residential dwellings and on the west abutting the subject property are row dwellings. The commercial area immediately adjacent to the east and across the street to the north are zoned C-1.

4. The applicant is requesting permission to make an addition to a non-conforming funeral home. The applicant proposes to build onto the existing structure a one story addition consisting of 3,194 square feet, which is 1,058 square feet larger than the existing structure. The addition would include two viewing rooms and a chapel.

5. A funeral home is first permitted as a matter of right in the C-2 District. The subject funeral home is located in the R-2 District.

6. The subject funeral home has been in existence at the present location for fifty years. It is a non-conforming use in the R-2 District.

7. Sub-section 7107.1 of the Zoning Regulations states, "no structure devoted to a non-conforming use may be enlarged, nor may a new structure be erected to house a non-conforming use."

8. The applicant testified that the size of the present facility was inadequate to handle the amount of business currently generated by the operator. The applicant further testified that it had sought other quarters in areas appropriately zoned for funeral home use, but that the cost of such facilities was too high for the applicant to bear.

9. The applicant did not present any evidence that there was an exceptional or extraordinary condition related to the property itself.

10. The Board finds that the evidence as to hardship presented by the applicant is related to the business and financial capacities of the applicant, and does not relate particularly to the property at issue. The Board finds no evidence to support that the applicant cannot continue using the property in its present state for its present use.

11. The Zoning Commission rezoned the property in 1958 from commercial to R-2. The Commission denied a requested change of zoning for this site to C-2 in 1966. In 1978, the Zoning Commission evaluated the zoning of the entire area along the right-of-way of the East Washington Railway, and did not change the zoning of the property.

12. The Municipal Planning Office by report dated September 14, 1978, and by testimony at the hearing, stated its opinion that the approval of the requested variances will create an adverse impact on neighborhood properties and such variances will not promote the interest and purposes of the Zoning Regulations. The Municipal Planning Office noted that funeral homes often generate large volumes of traffic and create high parking demands. The Board so finds. The MPO recommended denial of this application.

13. Advisory Neighborhood Commission 7-D was notified as to the case but no recommendation was received.

CONCLUSIONS OF LAW AND OPINION:

The Board concludes that the requested variances regarding the expansion of the non-conforming use are use variances, the granting of which requires the showing of an undue hardship upon the owner related to the property itself. The Board concludes that the parking variance is an area variance, the granting of which requires the showing of a practical difficulty. The Board concludes that because of the dual nature of the variances requested, the applicant must meet the stricter of the two tests.

As a practical matter, the Board concludes that the applicant has failed to demonstrate either a practical difficulty or an undue hardship within the meaning of the Zoning Regulations. The hardships alluded to by the applicant are related to the financial capabilities of the business run by the applicant, not to any inherent characteristic of the property. The Board concludes that the applicant has been making reasonable use of the premises in its present non-conforming state, and that there is nothing to prevent the applicant from continuing to do so.

The Board notes that on every occasion since 1958 that the Zoning Commission has considered rezoning this area or this property, including as recently as 1978, the Commission has declined to change the R-2 category. For the Board to grant the requested variance to allow expansion of a C-2 use, which is a less restrictive category than the adjoining commercial area, would be beyond the intent and purpose of the Zoning Regulations.

As to the parking variance, the Board notes that funeral homes generate fairly large volumes of traffic, and that to reduce the required number of spaces for the use would be entirely inappropriate.

Based on all of the foregoing findings and conclusions, the Board determines that the granting of the application would impair the intent, purpose and integrity of the zone plan. It is therefore ordered that the application is DENIED.

VOTE: 4-1 (William F. McIntosh, Chloethiel Woodard Smith, Walter B. Lewis and Charles R. Norris to deny; Leonard L. McCants opposed).

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

ATTESTED BY: Steven E. Sher  
STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER: 9 JAN 1979