

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 12853 of Harwood Associates, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the use provisions (Section 3104) to use the subject premises as an office in an R-4 District at the premises 153 E Street, S.E., (Square 736, Lot 127).

HEARING DATE: March 13, 1979

DECISION DATE: April 4, 1979

FINDINGS OF FACT:

1. This application was scheduled for the public hearing of January 24, 1979. That public hearing was cancelled because of the weather. The application was rescheduled for March 13, 1979. No affidavit was filed that the property had been posted for the March 13, 1979 public hearing. The applicant testified that the affidavit of posting had been mailed and provided a copy of the affidavit. The Chairman ruled that the applicant had complied with the Supplemental Rules of Practice and Procedure before the Board of Zoning Adjustment and that the case would be heard.
2. The subject site is located on the south side of E Street approximately seventy-three feet west of its intersection with 2nd Street. It is known as 153 E Street, S.E. and is in an R-4 zone.
3. The subject lot is 1,307 square feet in area. It is rectangular in shape and relatively flat. Its shape is essentially the same as other lots which abut the property on E Street.
4. The lot is improved with a two story semi-detached structure. The structure was evidently designed for and has been used as a residence. The applicant testified that, with renovations the property can still be used as a residence. The Board so finds.
5. There is a public alley fifteen feet wide at the rear of the lot and ten feet wide at the side of the subject lot. The alley is used as a rear exit by some residents and as parking space by the applicant.
6. There are row dwellings surrounding the subject site in the R-4 District.
7. The subject property was converted from a residence to office space and used as such without a Certificate of Occupancy.

8. The applicant's tenant, the National Taxpayers Union, is requesting permission to continue to use the subject premises for office purposes. The tenants testified that to move at this time would impose an undue hardship upon their operation.

9. The tenant is a non-profit organization, most of whose work is with the U.S. Congress. The eight rooms of the subject house were partitioned off into eight offices. The tenant employs approximately six persons.

10. The applicant requires a variance from the use provisions to use the subject premises as an office in the R-4 District. Office uses are first permitted by BZA approval in an SP District and as a matter of right in a C-1 District.

11. The Office of Planning and Development by memorandum of January 10, 1979, recommended that the application be denied on the grounds that the granting of the application would introduce onto a residential street a commercial use which would be incompatible with the residential character and uses along the street. The OPD noted that the dwellings along this street are in good condition and in residential use. There are no indications that there are changing conditions in this stable living area to warrant the encroachment of a commercial use at the subject location. The Board so finds.

12. The Capitol Hill Restoration Society, Inc., by letter of January 24, 1979, opposed the application by a unanimous vote on the grounds that no case had been made showing extraordinary conditions existing in the property itself. Such conditions, resulting in exceptional hardship and practical difficulties are required under Paragraph 8207.11 of the Zoning Regulations to grant a variance from the use provisions. The Board so finds. There was also a petition of some sixteen signatures, in opposition to the variance, attached to the letter of the CHRS.

13. Several neighborhood residents, including an abutting property owner, opposed the application on the grounds of litter and pollution and that illegal parking in the alleys by the applicant's delivery trucks obstructed their use of the alley. There were also several letters on file in opposition to the application.

14. Advisory Neighborhood Commission 6B opposed the application at the public hearing on the grounds that the property could be used for residential purposes for which it was zoned, and that the financial hardship testified to by the applicant was not a basis for granting a variance from the use provisions of the Zoning Regulations. The Board concurs.

CONCLUSIONS OF LAW:

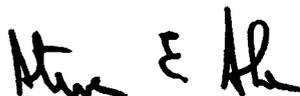
Based on the findings of fact, the Board concludes that the requested variance is a use variance, the granting of which requires the showing of an undue hardship arising out of the property itself. The Board found in findings of fact No. 3 that there is no hardship inherent in the property that would prevent its use for the purpose for which it was zoned. The Board notes that the applicant testified that the property could be used for a residence, and concluded that the property can be used for a purpose permitted in the district in which it is located. The Board also notes the substantial opposition to the application from the neighborhood and the ANC.

The Board further concludes that to grant the variance would be in conflict with the residential quality of development along E Street at this location and not in harmony with the intent and purpose of the Zoning Map and Regulations. Accordingly, it is ORDERED that the application be DENIED.

Vote: 4-0 (William F. McIntosh, Charles R. Norris, Chloethiel Woodard Smith, Leonard L. McCants to deny).

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

ATTESTED BY:



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER:

3 JUL 1979