GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 12871 of Chow Yung Ng, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the use provisions (Sub-section 4101.3) and off-street parking requirements (Paragraph 7107.11) to construct a restaurant in the SP-2 District at the premises 500 H Street, N.W., (Square 486, Lot 19).

HEARING DATE: February 19, 1979
DECISION DATE: March 7, 1979

FINDINGS OF FACT:

1. The subject property is located on the southwest corner of the intersection of 5th and H Streets, N.W. It is in an SP-2 District and is known as 500 H Street, N.W.

2. The property is currently improved with two buildings. The eastern part of the lot contains a three story wood frame building, while the western part contains a one story brick building. The interior of the brick building has been gutted, so that the brick shell is the only part remaining.

3. The applicant proposes to operate a restaurant on the site. Since the frame building will not meet code requirements for that type of use, and since only the shell of the brick building remains, the applicant proposes to demolish the existing improvement and construct a new masonry building for the restaurant. No off-street parking would be provided.

4. The brick building formally housed a restaurant, but that non-conforming use was terminated by the gutting of the building.

5. The applicant requires a variance from the use provisions to operate the restaurant in the SP-2 District. No retail uses are normally permitted in the SP District. A restaurant is first permitted in a C-R, W or C-1 District.

6. To grant a use variance, the applicant must prove that he cannot make reasonable use of the property for a purpose permitted in the district in which the property is located.

7. The applicant presented no evidence at all to support that the property could not be used for some use permitted in the SP District. The applicant further presented no evidence that the property is in any way unique, or that strict application of the Regulations would cause an undue hardship upon the owner of the property.

8. There was no written report from the Office of Planning and Development. However, at the hearing the OPD reported that it could find no basis for the granting of a use variance. The Board concurs.

9. There was no report from the Advisory Neighborhood Commission 2C.

10. There were no parties in opposition to the case.

CONCLUSIONS OF LAW AND OPINION:

The Board concludes that one of the requested variances is a use variance, the granting of which requires the showing of an undue hardship upon the owner arising out of the property. The Board concludes that the applicant has presented no evidence or testimony to support the granting of the variance. The applicant has not made any attempt to use the premises for a permitted SP purpose. The applicant solely seeks to operate a restaurant on the site, which use is not permitted. The Board concludes that the applicant has not demonstrated that he cannot use the premises for an SP purpose. The application is therefore DENIED.

VOTE:

5-0 (Ruby B. McZier, William F. McIntosh, Leonard L. McCants, Charles R. Norris and Chloethiel Woodard Smith to deny).

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

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

FINAL DATE OF ORDER: 22 MAY 1979