

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 12895 of 1401 Sixteenth Street Associates, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the provisions (Section 3105) to use all floors of the premises 1525 and 1529 O Street, N.W. as general offices and all floors of premises 1521 and 1523 O Street, N.W. as law offices in an R-5-B District, (Square 195, Lots 78, 80, 76 and 77 respectively).

HEARING DATE: March 21, 1979

DECISION DATE: April 4, 1979

FINDINGS OF FACT:

1. Section 3.3 of the Supplemental Rules of Practice and Procedure before the Board of Zoning Adjustment requires that the applicant post the subject property with notice of the public hearing at least ten days in advance of the hearing and that the applicant file not less than five days prior to the public hearing an affidavit demonstrating compliance with this section. In the subject application the property was posted for nine days and the affidavit was filed within three days. Parties in opposition, including the Advisory Neighborhood Commission and the Dupont Circle Citizens Association requested the Board to waive the requirements and hear the case on its merits. The Board so waived.
2. All four subject properties are located on the north side of O Street, N.W. between 15th and 16th Streets. They are in an R-5-B District and are known as 1525, 1529, 1521 and 1523 O Street, N. W.
3. The applicant is the owner of all four subject houses. As a condition to purchasing the property the applicant required that all four houses be converted from residences to office use by the previous owner.
4. Each of these four subject houses is a two-story brick row house with English basement.
5. Each of the four subject houses sits on a flat lot, approximately twenty one feet wide by one hundred feet deep.

6. All floors of 1529 O Street, N.W. are occupied by Peter D. Hart Research Associates, Inc., a political polling firm, as general offices without a valid certificate of occupancy permitting such use.

7. The first floor of 1525 O Street, N. W., is being used by the same Hart Research Associates as general offices without a valid certificate of occupancy permitting such use. The second floor of 1525 O Street, N.W., is vacant. The English basement of 1525 O Street, N.W., is vacant.

8. All floors of 1523 O Street, N.W., are being used by Reap Associates, a government contracting firm, as general offices without a valid certificate of occupancy permitting such use.

9. All floors of 1521 O Street, N.W., are being occupied by Brown & Bernstein, a law firm, for use as law offices without a valid certificate of occupancy permitting such use.

10. All four subject houses, with the exception of the basement apartment of 1525 O Street, N.W., were used as residential housing prior to their current use as offices. Until the fall of 1978, the applicants have rented the basement of 1525 O Street, N.W., as an apartment. All four houses are suitable for use as residential housing in essentially their present condition.

11. The applicant proposes to use all floors of premises 1525 and 1529 O Street as general offices and all floors of premises 1521 and 1523 O Street as law offices.

12. The properties are located in an R-5-B zone district. The frontage along 16th Street in this square is zoned as SP-2. The northern portion of this SP-2 zoning is developed with office uses which include 1401 - 16th Street occupied by the applicant and the Carnegie Institute of Washington. The southern portion of the SP-2 zoning is developed with a vacant building formerly used by the Nigerian Embassy, the Quality Inn and apartment buildings. Across the street from the subject properties on O Street are located rowhouses. A large portion of frontage on O Street is devoted to parking which serves residential developments in the square.

13. The proposed use of the properties is first permitted in an SP District with approval from the Board of Zoning Adjustment as a special exception.

14. The Office of Planning and Development, by report dated March 7, 1979, recommended that the application be denied on the grounds that the subject rowhouses should be used for the purpose for which they were zoned and that there are no physical factors in the property that would preclude their use for residential purposes. The Board so finds.

15. Neighboring property owners objected to the application on the grounds that the residents had experienced increased daytime traffic resulting from office use of the four subject houses, the residents live in a more deserted neighborhood at night, tending to lead to increased crime, and that the residents have been denied additional neighbors by the office use of the four subject houses.

16. Advisory Neighborhood Commission 2B opposed the application on a unanimous vote on the grounds that the purchaser has been using the subject premises without a Certificate of Occupancy for several years; that the applicant is knowledgeable and should have known that the present use is not a matter-of-right use and that the subject property is zoned for residential use and there is no hardship in the properties that prevent them from being used as residences. The Board concurs.

17. The Dupont Circle Citizens Association opposed the application on the same aforementioned grounds as the individual citizens and the ANC.

CONCLUSIONS OF LAW AND OPINION:

On the basis of the record the Board concludes that the applicant is seeking a use variance which requires a showing of a hardship upon the owner arising from the property itself. The Board notes that the subject properties look like residences, that the properties have had a history of use as residences and that the properties are zoned for residential purposes. The Board further notes that as a condition to purchasing the subject property the applicant required the previous owner to convert the subject property from residences to office use. The Board also notes that the lots are flat and regular in shape. The Board concurs with the opposition that there is no hardship stemming from the property itself which would preclude the subject property from being used for the purposes for which it was zoned. Accordingly, it is ORDERED that this application is DENIED.

The Board cautions the applicant that it does not look lightly upon the use of these properties without a Certificate of Occupancy for so long a period of time. The Board is concerned that so knowledgeable a party should have acted so imprudently.

VOTE:

4-0 (William F. McIntosh, Charles R. Norris, Chloethiel Woodard Smith and Leonard L. McCants 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: 9 JUL 1979

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."