

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13061, of Washington Circle Theatre Corporation, et al., pursuant to Paragraph 8207.11 and Sub-section 8207.2 of the Zoning Regulations, for a variance from the lot occupancy requirements (Sub-section 3303.1) and for a special exception under Sub-section 3308.2 to permit a roof structure not meeting the normal setback requirements in order to construct an apartment house addition at the premises 2301 Washington Circle, N.W., (Square 38, Lots 23, 25, 801, 806, 807 and 814).

HEARING DATES: August 29, 1979 and October 15 and November 19, 1980

DECISION DATES: September 19, 1979 and March 5, September 3, November 5 and November 19, 1980

FINDINGS OF FACT:

1. The subject application was originally heard by the Board on August 29, 1979.
2. At a hearing held on September 19, 1979, the Board granted the application by votes of 3-1 as to the special exception (William F. McIntosh, John G. Parsons and Chloethiel Woodard Smith to GRANT, Leonard L. McCants opposed, Charles R. Norris abstained) and 4-0 as to the lot occupancy variance (William F. McIntosh, John G. Parsons, Leonard L. McCants and Chloethiel Woodard Smith to Grant, Charles R. Norris abstained).
3. The final Order granting the application was issued on November 8, 1979. As a condition of the approval, the Board stated in the Order "that the building shall be constructed in accordance with the plans submitted to the Board, marked as Exhibit No. 15 of the record, provided that the details of the fenestration and the color and texture of building materials to be used shall be as approved by the Joint Committee on Landmarks."
4. By letter dated March 4, 1980, the applicant requested the Board to approve certain minor modifications to the approved plans. By Order dated March 19, 1980, the Board approved the modifications, and ordered the substitution of the plans marked as Exhibit No. 41 of the record for those originally approved. The modifications approved were all minor architectural changes.
5. By letter dated August 22, 1980, the applicant again requested the Board to approve revised plans. The revisions were interior alterations, designed to permit medical clinic use of a portion of the building. The applicant requested approval of the revised plans marked as Exhibit No. 49.

6. At its public meeting held on September 3, 1980, the Board with the consent of the applicant and Advisory Neighborhood Commission - 2A, waived its Supplemental Rules of Practice and Procedure and reopened the case. The Chairman of the Board directed that a further hearing be held on October 15, 1980 with testimony limited to the following designated issues:

- a. Did the Board intend to limit use of the interior of the subject building in issuing its Order approving a lot occupancy variance and penthouse location special exception to permit the construction of a building in Application No. 13061?
- b. If the Board did so limit the building uses, should the Board now approve a modification of the plans to permit medical clinic use of a portion of the subject building and if so, what portion?

7. At the further hearing, the Board heard testimony and argument from the applicant, Advisory Neighborhood Commission - 2A and other area residents. The applicant and ANC introduced an agreement into the record by which the ANC had agreed to support clinic use of a specified portion of the building. Opposition to the proposed clinic use was based on the proposition that there were sufficient existing medical facilities in the area already and the building should be reserved for exclusively residential use.

8. As a result of the testimony and arguments presented, the Board finds that its approval of November 8, 1979 clearly did not contemplate clinic use, and that the plans as approved by the Board did not permit clinic use.

9. The Board was not satisfied that it had received sufficient information to understand what modification in the plans the applicant then sought. The Board therefore scheduled an additional hearing for November 19, 1980 to consider only whether it should "permit medical clinic use of a portion of the subject building, and if so, what portion?"

10. The applicant presented plans marked as Exhibit No. 70 of the record at the hearing. Those plans indicate that portions of the ground and first floor and all of the second, third and fourth floors of the new building would be used for clinic purposes. Advisory Neighborhood Commission - 2A, by agreement dated September 19, 1980 and by letter dated November 13, 1980, supported the applicants' request.

11. The modifications requested do not change or affect the exterior elevation of the proposed building as previously approved by the Board.

12. A clinic is a use permitted as a matter-of-right in the R-5-D District.

13. The modification do not require any additional special exceptions or variances beyond those already approved by the Board. None of the material facts which the Board relied upon in granting the relief previously are altered by the proposed modifications.

CONCLUSIONS OF LAW AND OPINION:

The Board concludes that the modifications requested are minor in nature and do not affect the relief previously granted nor affect compliance with the Zoning Regulations in this case. The Board further concludes that all of the material facts which the Board relied upon in granting the application are still valid. The Board concludes that the proposed changes represent minor interior architectural changes. The use is normally permitted as a matter-of-right in an R-5-D District. The exterior elevations are not affected by the proposed changes. The Board further notes the support of Advisory Neighborhood Commission - 2A for the modifications.

It is therefore ORDERED that the revised set of plans submitted by the applicant, marked as Exhibit No. 70 of the record is hereby APPROVED, and shall be substituted for the appropriate sheets of those plans previously submitted to and approved by the Board. In all other respects, the previous orders of the Board dated November 8, 1979 and March 19, 1980 shall remain in full force and effect.

DECISION DATE: November 19, 1980

VOTE: 5-0 (Theodore F. Mariani, Charles R. Norris, Connie Fortune, Douglas J. Patton and William F. McIntosh to APPROVE the MODIFIED PLANS).

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

ATTESTED BY: _____


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: _____

30 DEC 1980

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."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.