

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13097 of 1536 Sixteenth Street Associates, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 4101.44 to use the second and third floors of the subject premises as an office for a non-profit organization in an SP-1 District at the premises 1536 - 16th Street, N.W., (Square 180, Lot 42).

HEARING DATE: November 28, 1979

DECISION DATE: December 5, 1979

FINDINGS OF FACT:

1. The application was amended at the time of the public hearing to include the use of the first floor as office space.

2. The subject property is located on the west side of 16th Street at its intersection with Q Street, in an SP-1 zone district at premises known as 1536 - 16th Street, N.W.

3. The site is improved with a three story and basement brick structure, that is currently leased by the applicants as offices of non-profit organizations. The two present tenants have occupied the building since August, 1978.

4. The last previous use of the property was that of an architect's office on the basement and first floor level with a rooming house on the second and third stories. A Certificate of Occupancy No. A-12840 dated November 29, 1951, was issued for the latter use.

5. The property was zoned SP-2, prior to the issuance of Zoning Commission Order No. 282, dated June 14, 1979, which changed the zoning on this site to SP-1.

6. By Order No. 235, which became effective on October 5, 1979, the Zoning Commission amended the text of the Zoning Regulations regarding SP District. Prior to October 5, 1978, a non-profit organization could use an existing building as a matter-of-right. Approval from the BZA was required to construct a new building for office use. After October 5, 1978, BZA approval was required to convert an existing building or erect a new building for office use.

7. The present tenants occupied this site as offices prior to October 5, 1978 with the understanding that office use was permitted as a matter-of-right in the SP-2 District. However, no Certificate of Occupancy was applied for or obtained to authorize the office use.

8. The area is developed with row dwellings of similar height and bulk devoted to a mixture of office and residential uses. The adjoining property to the south is a two story building used as a dental office, with an adjoining four story structure used for offices of lawyers and architects.

9. The site will be used as offices for the Nuclear Information and Resource Services and Environmentalists for Full Employment. Evidence in the record indicates that both are non-profit organizations. The two organizations have a total of eight employees. Four of the present employees drive to work, while the remaining four use public transportation.

10. The applicant provides two legal sized accessible parking spaces at the rear of the structure for the occupants of the 4,000 square feet of office space. These spaces meet the requirements of Sub-section 7202.1. There are also two other parking spaces available behind the two legal spaces. Access to all the spaces is by way of a ten foot public alley connecting to Q Street.

11. The applicant testified that the present occupants of the building generat a very low level of traffic and that most of that traffic was not automobile traffic.

12. Advisory Neighborhood Commission 2B was represented at the hearing by Ms. Kathy Lipscomb, its staff person. The ANC submitted a written statement dated November 28, 1979 which basically confirmed the points stated at the hearing. The ANC opposed the application on the grounds that the SP zone was becoming a totally office zone, with no mix of residential uses. The ANC argued that office use generated more traffic and more pollution than residential use. The ANC alleged that the use is in conflict with the dominant residential uses in the area. The ANC noted that the applicant had illegally occupied the building for about two years.

13. Mrs. Harriett B. Hubbard expressed the same general opposition on behalf of the Dupont Circle Citizens Association.

14. In addressing the issues raised by the ANC as well as those raised by the citizens association, the Board finds as follows:

- a. The Findings of Fact and the Conclusions of Law, hereinafter stated, find that the applicants met their burden of proof and met the requirements of Paragraph 4101.44 of the Zoning Regulations.
 - b. Sub-section 4101.1 of the Zoning Regulations does not preclude office buildings. The major purpose of the SP District is to act as a buffer between adjoining commercial and residential areas, and to ensure that new development is compatible in use, scale and design with the transitional function of the zone district. In the subject application, as hereinafter concluded, the proposed building is compatible with other neighborhood uses and structures.
 - c. The relief the applicants are seeking does not require a showing of a hardship. Nor does it require that the applicant demonstrate that the building cannot be used for residential purposes. Under the special exception, the applicants must show compliance with Paragraph 4101.44 and Sub-section 8207.2.
 - d. There is no evidence in the record to suggest that the use will cause dangerous or objectionable traffic conditions. To the contrary the Board has determined that there will be a low level of traffic generated.
 - e. The fact that a use was operated without a Certificate of Occupancy does not require the Board to deny an application. The Board is always mindful of the need to secure compliance with the Zoning Regulations, and will deal appropriately with those situations where it determines that compliance with the Regulations has not been or cannot be obtained.
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CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant has complied with the requirements of Paragraph 4101.44 in that the proposed use is for offices of non-profit organizations and such use is in harmony with existing uses on neighboring property. The Board concludes that the use would be included in a row structure, which type is common to the neighborhood and there will be no changes to the exterior of the structure. The subject property is served well by bus and subway so that no dangerous or other objectionable traffic conditions are anticipated. The Board further concludes that the special exception can be granted as in harmony with the general intent and purpose of the Zoning Regulations and will create no adverse affect on the use of neighboring property. The special exception can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan.

The Board concludes that it has addressed the issues and concerns of the ANC and that it has thus accorded to the ANC the "great weight" to which it is entitled. Accordingly, it is ORDERED that the application is GRANTED SUBJECT TO THE CONDITION that the use shall be limited to the present tenants only; i.e., the Nuclear Information and Resource Service and Environmentalists for Full Employment.

VOTE: 4-0 (Walter B. Lewis, Connie Fortune, William F. McIntosh and Leonard L. McCants to grant, Charles R. Norris not voting, not having heard the case).

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

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

FINAL DATE OF ORDER: 17 MAR 1980

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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.