

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 13111 of John F. Middleton, pursuant to Sub-section 8207.2 of the Zoning Regulations for a special exception under Paragraph 4101.44 to use the basement, first and second floors of the subject premises as professional offices in an SP-1 District at the premises 1525 New Hampshire Avenue, N. W. (Square 136, Lot 802).

HEARING DATE: December 12, 1979  
DECISION DATE: February 6, 1980

FINDINGS OF FACT:

1. The subject property is located on the south side of New Hampshire Avenue between Dupont Circle and 18th Street, N. W., in an SP-1 Zone District at premises known as 1525 New Hampshire Avenue, N. W.
2. The subject property is approximately 2,000 square feet in area, and is improved with a three-story and basement brick structure, which occupies approximately eighty percent of the lot.
3. The structure was originally built around 1890 as a single family residence.
4. The property was used as a residence until the applicant acquired the site in 1969. At that time it was converted for use as a law office without a proper Certificate of Occupancy.
5. The applicant testified that, upon purchasing the property, he understood that a law office was a use permitted as a matter of right in an existing building in the SP District, and was not aware that a Certificate of Occupancy should have been secured.
6. The property continued in use as a law office for the applicant until 1974 when a fire destroyed all of the files, and badly damaged the interior of the structure.
7. Although no structural alterations were made, the applicant completely renovated the interior of the structure

after this fire, removing bathroom and kitchen fixtures. This made the site more suitable for office space as opposed to residential use. The applicant provided copies of electrical permits covering the renovation. The permits listed the site as an office.

8. The lot is twenty-five feet in width and eighty feet in depth. The structure is a row house twenty-five feet in width and fifty-seven feet in depth.

9. The structure has approximately 4,864 square feet of interior space devoted to office use. Sub-section 7202.1 of the Zoning Regulations ~~requires~~ one parking space for each 1,800 square feet in excess of 2,000 square feet. The proposed office use would thus normally require two spaces.

10. The structure was built in 1890 prior to the adoption of the present Zoning Regulations. The present Regulations also require one off-street parking space for a single family dwelling. Pursuant to Sub-section 7201.2, when the use of a structure is changed, parking spaces are to be provided for the additional amount necessary to conform to Sub-section 7202.1. Thus, for this building for office use, only one parking space must be provided.

11. Subsequent to the public hearing, the applicant requested in writing, a variance from sub-section 7202.1. Off-street parking on the premises cannot be provided since the site occupies the entire width of the lot, and the rear yard is inaccessible because there is no alley at the rear.

12. The applicant testified that the proposed use, which has operated without a Certificate of Occupancy for the past ten years, would not create any objectionable traffic conditions. There are several parking garages in the square capable of accommodating the parking demand for the site.

13. Although the area is developed with row house type structures, the entire block on both sides of the street is currently devoted to office use. A portion of the square is zoned C-3-B, which allows commercial & office uses as a matter of right.

14. The proposed use is in harmony with the existing non-residential uses of this block. The height bulk and design of the structure is consistent with that of other structures adjoining and surrounding the site.

15. The property is currently leased to the Center for Natural Areas. This organization is a non-profit organization. This lease expires in June of 1980. The applicant proposes at that time to lease the property to the Public Interest Economics Foundation, which is a non-profit organization whose general purpose is to provide studies of the economic aspects of various energy and ecology oriented programs.

16. The applicant testified that the Public Interest Economics Foundation (PIE-F) employs sixteen people, that they expect that number to remain stable, and that nearly all of its staff members utilize the various forms of public transportation. The Dupont Circle Metro Station is approximately one block from the subject site.

17. The applicant further testified that the PIE-F business required only occasional business appointments, with the bulk of their activities conducted through the mail system.

18. The applicant provided the Board with copies of Trade, Business & Professional Licenses issued in 1973 and 1974, as well as a statement from Begg, Inc., the realty company that handled the sale of the property to the applicant. This entails that the applicant stated at the time of purchase that the structure would be used as offices. The Board finds that while this does not excuse the absence of a Certificate of Occupancy, it does show that the applicant acted in good faith in using the premises as offices.

19. The Office of Planning and Development by report dated January 4, 1980 recommended approval of application, subject to modification of the application to request a variance for one parking space, on the grounds that the proposed office use will not create dangerous or otherwise objectionable conditions, that the existing structure is similar in height, bulk and design to other structures in the block, and that the non-profit office use is compatible with other uses in the block. The Board so finds. The application was amended to request a parking variance.

20. The subject structure has been designated by the National Register of Historic Places as contributing to the historic significance of the Dupont Circle Historic District.

21. The Dupont Circle Citizens Association opposed the application on the grounds that to grant it would decrease residential housing facilities in the neighborhood and that the applicant failed to prove that he can't use the property for residential purposes without incurring a hardship.

22. Advisory Neighborhood Commission 2B, opposed the application on the grounds that to grant it would turn this entire subject block into office use which is contrary to the purpose of the SP District which is to act as a buffer zone between the commercial and residential uses and not to serve residential housing. The ANC further noted that a parking variance for two spaces is required.

23. By statute, the Board is required to give great weight to the issues and concerns of the ANC. In addressing these issues, as well as those raised by the DCCA, the Board finds as follows:

a. The Findings of Fact and the Conclusions of Law, hereinafter stated, find that the applicant has met its 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 this zone district. In the subject application, as hereinafter concluded, the proposed building is compatible with other neighborhood uses and structures. In addition, a building of architectural merit is being preserved and protected.

c. The relief the applicant is seeking does not require a showing of a hardship. Under the special exception, he must show compliance with Paragraph 4101.44. For the area variance, hereinafter discussed in the Conclusions of Law, he must show a practical difficulty inherent in the property itself.

d. The application was amended to request a parking variance. The Board, as stated in Finding of Fact No. 9, determined that only one space would need to be provided.

24. After the hearing, the applicant amended the application to request a parking variance, as described herein. That amendment, along with the applicant's post hearing submission, was served on the Advisory Neighborhood Commission and the Dupont Circle Citizens Association, to allow them to respond. No response was received from either of the opposition parties.

CONCLUSIONS OF LAW:

Based on the record, the Board concludes that the applicant has substantially complied with the requirements of Paragraph 4101.44 in that the proposed use is for a non-profit organization, 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 structural changes to the exterior structure. The area is well served by public transportation, as well as an ample supply of parking garages 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.

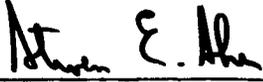
As to the variance from the parking requirements, the Board concludes that the applicant is seeking an area variance, the granting of which requires a showing of a practical difficulty in the property itself. The Board notes that the subject improvement was built in 1890 and occupies eighty percent of the lot.

The building is also of historic character and contributes to the Dupont Circle Historic District. It cannot be altered to provide one space nor is there any room on the lot to provide one space. The practical difficulty stems from the property itself. The Board further concludes that the variance 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 in Finding-of-Fact number twenty-three and that it has thus accorded to the ANC the "great weight" to which it is entitled. Accordingly, it is ORDERED that the application as amended is GRANTED.

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

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

ATTESTED BY: 

STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER: 31 MAR 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.