

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13281 of D.C. Housing Industry Corp., pursuant to Sub-section 8207.2 of the Zoning Regulations, for special exceptions under Sub-sections 7104.2 and 7105.2 to change the non-conforming uses, first floor, from a retail record store, retail sales of general merchandise and office and a delicatessen to general professional offices, first floor and to extend the use to the basement for storage purposes in an R-5-C District at the premises 80 New York Avenue, N.W., (Square 619, Lot 172).

HEARING DATE: July 16, 1980

DECISION DATE: November 5, 1980

FINDINGS OF FACT:

1. The subject property is located at the southeast corner of the intersection of New York Avenue and 1st Street, N.W. and is known as 80 New York Avenue N.W. It is in an R-5-C District.

2. The property is a part of an apartment building complex known as the Julius Hobson Plaza now being restored and renovated for one and two bedroom units to be sold under condominium ownership arrangement. The application is related to the first floor and basement of the four story building facing the park between New York Avenue and M Street. The upper floors of this building will be used for one and two bedroom apartments.

3. The first floor of the subject premises was last used for retail record store, retail sales of general merchandise and office and a delicatessen. These uses are first allowed in a C-1 zone. The proposed office use, general professional office, is also allowed first as a matter-of-right in the C-1 zone. The office of a professional is first permitted in an SP District as a special exception. It is proposed that the non-conforming use will be extended to the basement for storage purposes.

4. At the public hearing the applicant emphasized that the proposed office use would be medical offices.

5. There was opposition to the application on the grounds that there was more need in the subject neighborhood for small retail stores. The neighborhood is dense with very few stores to provide service. The opposition would prefer that the very same uses that the applicant is now seeking to change be reinstated and provide services to the new owners of Julius Hobson Plaza. The opposition further pointed out there were sufficient medical services in the area.

6. The Board asked the applicant to rethink its goals and discuss them with the opposition. The Board suggested that the application could be amended or withdrawn without prejudice.

7. The Board deferred a decision on the application for several months. By letter of October 3, 1980 the Board requested the applicant to advise it of the applicant's plans. No response was received.

CONCLUSION OF LAW:

The Board concludes that the applicant has the burden of proof in prosecuting the application. Having received no response from the applicant to the request of the Board, the Board must decide the case based on the record made at the hearing of July 16, 1980. The Board concludes that the applicant has not successfully carried the burden of demonstrating that the proposed use is an appropriate replacement for those previously existing non-conforming uses which served the neighborhood. It is therefore ORDERED that the application is DENIED.

VOTE: 5-0 (Walter B. Lewis, Charles R. Norris, Connie Fortune, William F. McIntosh 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: 12 JAN 1981

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."