GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 13353, of Hood and Hood, Inc., pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the use provisions (Section 3105) to use the basement, first and second floors of the subject premises as an office for pest control and sales in an R-5-A District at the premises 2478 Alabama Avenue, S.E., (Square 5844, Lot 818).

HEARING DATE: October 15, 1980
DECISION DATE: November 5, 1980

FINDINGS OF FACT:

1. The subject site is located on the west side of Alabama Avenue north of Irving Street and is known as 2478 Alabama Avenue, S.E. It is in an R-5-A District.

2. The site is trapezoidal in shape. It has a frontage of 126.39 feet on Alabama Avenue and a rear width of 94.02 feet. Its southern boundary is more than twice the length of its northern boundary.

3. The site is improved with a two story brick detached dwelling. It previously had been used as the offices of a physician. There is no Certificate of Occupancy for such use. The rooms have been partioned off to use as offices for doctors. The installation of those partitions did not constitute structural alterations.

4. The applicant proposes to use the basement, first and second floors of the subject premises as offices for pest control and sales. The pest control materials would be stored on the premises for use elsewhere. There would also be across-the-counter sales for persons coming in from the street.

5. The hours of operation of the office would be from 8:00 a.m. to 6:00 p.m. The office would employ nine persons but anticipates expanding to twenty employees.

6. The subject site is located between apartment buildings. To the left of the site there are parking spaces for nine to twelve vehicles. The applicant operates seven vehicles in his business including vans, pick-ups and station wagons.

7. The applicant testified that the vehicles load-up at least once a week. The loading time is approximately eight minutes. The trucks are loaded in the early morning or at the close of business at night. Some of the trucks are off the site at night for those drivers who do not report to the office in the morning but rather go directly to the customer's residence or business.

8. The applicant bought the subject premises several months ago. He testified that he was led to believe by a real estate broker that since the property had previously been used as offices that the present office could also occupy the premises. The applicant testified that he has expended $11,000.00 to conform the building for his proposed use.

9. The applicant previously leased a building at 568 LeBaum Street, S.E. The property has been sold and the applicant must vacate.

10. The applicant testified that he is not operating from the subject property, although there is a large sign on the front lawn indicating the nature of the business to be conducted. The applicant has been advised by the D.C. Government that such a sign is illegal. The applicant submitted several letters from his employees that all of them work out of the office at 568 LeBaum Street, S.E.

11. The applicant presented no evidence or testimony that indicated the property was affected by an extraordinary or exceptional situation or condition that would prevent it from being used in accordance with the Zoning Regulations.

12. The applicant presented no hardship associated with the property to support the granting of the requested variance.

13. There was a petition submitted to the record of over 100 signatures in favor of the application. A review of the petition disclosed that less than twenty percent of the signers were from the immediate neighborhood. There were letters of record in favor of and against the application. Those in favor stressed the need for the proposed services, those opposed stated that an office use should not be permitted in a residential area. Parties in opposition and in favor testified at the public hearing.

14. Advisory Neighborhood Commission - 8B at the public hearing and by letter dated October 15, 1980, opposed the application on the following grounds:

a. The use of the subject premises as a business destroys the residential character of the community.

b. It depresses property value of home owners.

c. There is not ample parking at 2478 Alabama Avenue to accommodate the applicant's vehicles.

d. The building could be rehabilitated for residential use. The District of Columbia Department of Housing and Community Development (DHCD) has a policy of rehabilitating and putting back on the market housing that are vacant and boarded in residential areas. The DHCD has two programs, the Home Purchase Assistance Program and the 312 Rehab Loan Program to implement its policy of removing vacant, boarded up or substandard housing from the neighborhoods by assisting residents in purchasing and rehabilitating such houses.

e. The subject structure being used in commercial purposes does not conform with the existing use in the area, and is opposed by the neighborhood.

15. The Board is required by statute to give great weight to the issues and concerns of the ANC. In addressing these concerns, the Board stated that it is in concurrence with objections (a), (d) and (e), objection (b) is conjectural and there is no basis in the record to sustain the objections and objection (c) is not disposition of this application for reasons stated below. The Board need not address (c).

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant is seeking a variance from the use provisions, the granting of which requires a showing of a hardship that is inherent in the property itself. The Board concludes that there is no such hardship. The building on the property looks like a dwelling and can be used as a dwelling. It is surrounded by residences. Its interior is designed for a residence. The Board finds no reasons why it cannot be used for the purpose for which it is zoned. The hardship testified to by the applicant is that he is losing his lease on his present office location, that he expended $11,000.00 to renovate the subject premises and that he was led to believe that the subject premises could be used as an office since it had previously been used as a doctor's office. The Board concludes that the applicant's hardship is based on personal reasons and not

on any hardship inherent in the property. The record also evidences that there was no Certificate of Occupancy issued for the use of the premises as a doctor's office. If the applicant was misled by the seller, then he has other remedies to pursue. The Board further concludes that the relief cannot be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan. Accordingly, it is ORDERED that the application is DENIED.

VOTE: 5-0 (Douglas J. Patton, Connie Fortune, Walter B. Lewis, Charles R. Norris and William F. McIntosh 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: 5 MAR 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 BECOM FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."