

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13384, of Towers Condominium Association, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3105.43 to use part of the B-1 level of the subject premises as a dressmaking studio as an adjunct to an apartment house in an R-1-B District, at the premises 4201 Cathedral Avenue, N.W., (Square 1601, Lots 8 and 9).

HEARING DATE: November 19, 1980
DECISION DATE: December 3, 1980

FINDINGS OF FACT:

1. The subject property is located on the north side of Cathedral Avenue, east of its intersection with New Mexico Avenue, N.W. The property is located in the R-1-B and R-5-A Districts, with the zone boundary located 100 feet from and parallel to the right-of-way of New Mexico Avenue. The portion of the subject building at issue is controlled by the R-5-A regulations.
2. The subject property is improved with a large high-rise apartment house known as the Towers. The building was converted to a condominium form of ownership in November of 1979. The building has over 600 dwelling units within it.
3. The subject application proposes to establish a dress-making studio on the B-1 level, which is the first basement level below the main floor.
4. There are already existing three accessory commercial uses, a grovery store, a beauty shop and a tailoring shop, located on the same level as the proposed establishment.
5. The area of the building in question consists of approximately 1200 square feet and has been vacant for approximately eight years. The last previous use of the property was as a drug store pursuant to Certificate of Occupancy No. B40794, dated May 7, 1963, as authorized by BZA Order No. 7705.

6. The proposed use would be a dressmaking studio, to provide custom design and dressmaking services primarily for the convenience of the residents of the Towers. The studio will do no alterations.

7. The studio will have two employees at the beginning, and does not expect to add many more. The studio will function on an appointment only basis. There will be no outside advertising.

8. Parking is available within the building for any customers who come from outside. There will be no deliveries made to the studio. All supplies will be brought to the premises by the employees.

9. There is no direct entrance to the studio from the outside of the building.

10. No part of the studio or its entrance is visible from a public sidewalk. There will be no sign or display advertising the existence of the adjunct visible from the outside of the building.

11. The nearest commercial district is located more than one-quarter mile away from the principal entrance to the building.

12. The proposed use will not be detrimental to other existing commercial uses located in commercial districts near the subject building.

13. The residents of the subject building are capable of furnishing substantially all of the financial support for the proposed use.

14. The Towers Condominium Association is the owner of the space at issue in this application. It is also the Association of all of the individual unit owners in the building. The Association supported the application.

15. There are letters of support in the record from some of the individual unit owners.

16. One individual unit owner appeared at the hearing in opposition. She testified that there is already a tailoring shop in existence in the building, and argued that the proposed use is thus unnecessary and unfair competition to the existing tenant.

17. The tenant of the existing tailoring shop did not appear at the hearing or submit a statement for the record.

18. The President of the Condominium Association testified that he had conferred with the present tenant and had been advised that the tenant had no objection. The two establishments will not be in competition, since the proposed use will do no alterations.

19. There was no report from Advisory Neighborhood Commission 3D.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the applicant is seeking a special exception. In order to be granted such an exception, the applicant must demonstrate that it has complied with the requirements of Paragraph 3105.43 and Sub-section 8207.2 of the Zoning Regulations. The Board concludes that the applicant has so complied. The use is located below the level of the main floor, it is not visible from the sidewalk and is a legitimate commercial adjunct to be permitted under these Regulations.

The arguments raised in opposition are not persuasive to require denial of the application by this Board. Economic competition is not a proper argument for denial of an application. Further, the Board received no direct testimony from the party presumed to be injured. Additionally, from the evidence before the Board, it does not appear that the proposed use will be detrimental to the existing tailoring shop, but might will enhance it.

The Board further concludes that the special exception can be granted as in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to affect adversely the use of neighboring property in accordance with said regulations and maps. It is therefore ORDERED that the application is GRANTED.

VOTE: 5-0 (Connie Fortune, Charles R. Norris and William F. McIntosh to GRANT; Theodore F. Mariani and Douglas J. Patton to GRANT by PROXY).

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

ATTESTED BY: *Stm 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."

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.