

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13678, of James P. Smith, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Sub-section 7104.2 to change a non-conforming use from barber shop, first floor, to investigation office, first floor in an R-4 District at the premises 833 L Street, N.E., (Square 909, Lot 65).

HEARING DATE: February 17, 1982
DECISION DATE: March 3, 1982

FINDINGS OF FACT:

1. The subject site is located at the southwest corner of the intersection of L Street, 9th Street and West Virginia Avenue, N.E. and is known as premises 833 L Street, N.E. It is in an R-4 District.

2. The subject site is a triangular lot with 30.03 feet of frontage on L Street, N.E., 5.50 feet of frontage on 9th Street, N.E. and 39.15 feet of frontage along West Virginia Avenue, N.E. The rear of the lot abuts on private property with a common boundary of 30.62 feet.

3. The lot is improved with a two-story, brick structure. The first floor is designated for commercial use as a barber shop under Certificate of Occupancy No. A-32282, as approved under BZA Order No. 4089, dated August 3, 1955. Such use is not normally permitted in an R-4 District and is a non-conforming use. The second floor is designated for residential apartment use. The entrance to the commercial use on 9th Street, N.E. faces across from the rear of properties bounded by 9th Street and West Virginia Avenue, N.E.

4. The immediate area is characterized by row and semi-detached dwellings in the R-4 District. Gallaudet College is located one block north of the site. There is a C-2-A strip on the north side of Florida Avenue between West Virginia Avenue and 12th Street. This shopping area contains various commercial establishments including a laundry and liquor store. South across West Virginia Avenue from the site is the North East Neighborhood House Job Training Center. The site abuts row dwellings in the R-4 District.

5. The applicant proposes to use the first floor of the subject premises as the offices for Accurate Legal

Services Co., Inc., a District of Columbia Corporation. He seeks a change from one non-conforming use to another.

6. The business performs support work for attorneys, such as filings, investigations, and referrals. The business attracts little walk-in activity since most of the work is processed by mail or in court off-site. The business predominantly serves the entire metropolitan area. It is not a neighborhood facility, although the neighborhood residents may avail themselves of the proposed services.

7. The president of the corporation and his receptionist will work at this site with no other employees stationed there. The hours of operation will be from 9:00 A.M. to 4:00 P.M., Monday through Friday.

8. The second floor of the premises is an occupied residential apartment and will continue to be used as such.

9. The applicant proposes no external changes or modifications to the building. The applicant plans only minor improvements for repairs and maintenance, including painting, general clean-up, and removal of exterior barber signs in exchange for a two-square-foot door sign upon establishment of the legal services office.

10. There is no parking space on the subject lot. There is on-street parking allowed along the site's curb frontage on both West Virginia Avenue and L Street.

11. Both a barber shop and legal services office are first permitted in the C-1 District.

12. The Office of Planning and Development, by report dated February 10, 1982 and by testimony at the hearing, recommended that the application be approved. The Office of Planning and Development was of the opinion that the proposed office use of the premises may be less intensive in terms of operational characteristics than the previous barber shop use of the site. The office use will not operate beyond 4:00 P.M. and will not have the level of patronage to the site, either by car or foot, as a barber shop would expect. The OPD believed that the exterior treatment and signage proposed for the premises will not be objectionable to a residential setting. The OPD was of the opinion this application meets the test pursuant to Sub-paragraph 8207.2 and Sections 7104 and 7109 of the Zoning Regulations. The Board, for reasons discussed below, does not concur in the OPD recommendation.

13. Advisory Neighborhood Commission 2C made no recommendation on the application.

14. The applicant presented no probative testimony or evidence at the hearing, other than his own unsupported assertions, to demonstrate that the proposed use would not be objectionable. The applicant did not address at all the requirements of Sub-paragraph 7109.1112, that the proposed use will not affect adversely the present character or future development of the neighborhood in accordance with these Regulations and the Comprehensive Plan for the District of Columbia.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant is seeking a special exception, the granting of which requires a showing through substantial evidence that the applicant has complied with the requirements of Sub-section 7104.2 and Section 7109 and that the relief requested under Sub-section 8207.2 can be granted as in harmony with the general purpose and intent of the Zoning Regulations and will not tend to affect adversely the use of neighboring property. The Board concludes that the proposed use is an office use which anticipates its clients from all over the District of Columbia and is not limited to the immediate area. In this sense, it is not a neighborhood facility. The Board is of the opinion that the proposed use is a commercial use proposed to be located in a residential neighborhood, that the use would not primarily serve the immediate neighborhood, would be out of character with the area, and would not be consistent with the intent and purposes of the Regulations for the R-4 District.

The Board further concludes that the applicant has produced no substantial evidence that the use will not be objectionable. The applicant contends that the proposed office use will not have any adverse affect or generate any traffic or noise which would impact on the neighborhood. There is no evidence on record to support this contention. The Board therefore concludes that for all the above reasons the application is DENIED.

VOTE: 3-1 (Walter B. Lewis, Connie Fortune and Charles R. Norris to DENY; William F. McIntosh opposed to DENIAL; Douglas J. Patton not voting, not having heard the case).

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

ATTESTED BY:



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER:

JUN 24 1982

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 SUPPLEMENTALS RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."