

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 13706, of Philip L. Sheridan, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the floor area ratio requirements (Sub-section 5301.1) to use part of the second floor of the subject property for commercial use in a C-2-A District at the premises 1803 - 18th Street, N.W., (Square 152, Lot 864).

HEARING DATE: March 17, 1982

DECISION DATE: April 7, 1982

FINDINGS OF FACT:

1. The property is located on the northwest corner of the intersection of 18th and S Streets, N.W. and is known as premises 1803 18th Street, N.W. It is in a C-2-A District.

2. The subject premises contains 3729 square feet of land area and is presently improved with a two story structure occupying essentially 100 percent of the lot, which is vacant except for the Dupont Center Market located on the first floor at the north end of the site.

3. The applicant intends to restore the building and use it for commercial condominiums.

4. Under the present zoning, the property may contain a floor area ratio (FAR) of 1.5 for commercial use and 1.0 for residential use as a matter of right.

5. Variance relief from the FAR requirements is necessary to allow use of the entire second floor of the subject premises for commercial, non-residential use.

6. The remainder of the building may be used for commercial purposes as a matter-of-right. It is not economically feasible to utilize the FAR of 1.0 for residential use at this time as it would require adding another floor to the existing building for which the structural expenses would be prohibitive.

7. The amount of space involved in this application is approximately 1134 square feet, or approximately one-third of the second floor space.

8. The granting of the variance would increase the matter of right FAR by .305, yielding a total commercial, non-residential FAR of 1.805.

9. The most recent certificates of occupancy evidence that the first floor of the site was last used for retail grocery use and the second floor was used as an apartment house, Certificates Nos. B49844 and B103596. The premises were damaged by a fire in 1979 and have been vacant ever since, except for the Dupont Center Market.

10. The vacant two-story structure is located within the Dupont Circle Historic District. All necessary approvals for the proposed renovations of a historic structure have been approved by the Mayor's Agent.

11. The applicant has been involved with other renovation work of historic structures in this vicinity. Such projects include the Barbour House and the Anderson House.

12. The applicant submits that in today's market, reinstatement of the historical residential use is not feasible due to the cost of new construction of residential units and location of such units on only one-third of the second floor with the remainder in commercial use and other commercial uses located directly below on the first floor.

13. North of the site are two and three story row structures housing a cafe, a vacant structure, architect's office and photo studio all in the C-2-A District. East of the site along S Street are two office buildings which are in the C-2-A District abutted by row dwellings in the R-5-B District. South of the site are residentially developed properties in the R-5-B Districts. West of the site across 18th Street is an Amoco gasoline station in the C-2-A District.

14. The applicant's intent is to use all of the commercial space permitted as a matter-of-right. This creates a lop-sided mixture of uses. There would not be a separate entrance for the residential portion, the Building Code requires two means of egress, nor would there be any form of visual or acoustic buffer between the various uses. There would be increased security risks and noise levels not normally associated with purely residential buildings. Also, residential use owners would be forced to travel around the building to use the commercial use trash dumpster. Overall, this situation would not create a desirable environment or quality of life in which to live. Also, the mixture of uses may inhibit the commercial and office tenants since the building must be accessible on a twenty-four hour basis for the accommodation of the residential users.

15. The applicant's proposed use of retail, commercial and office is permitted as a matter of right in the C-2-A District.

16. The Office of Planning and Development, by memorandum dated March 12, 1982, and by testimony presented at the hearing, recommended that the application be approved. OPD noted that there are practical difficulties in devoting a small portion of the second story to isolated residential use within an otherwise commercial structure. Also, the Office stated that the variance could be granted without any improvement by renovating and putting to use a burnt-out eyesore. The Board concurs in the OPD recommendation.

17. There was no written report received in the record on behalf of Advisory Neighborhood Commission 1C. The single member district commissioner for the district in which the property is located did testify on behalf of his constituents in favor of the application. The Board is required by statute to give great weight to the issues and concerns of the ANC only if it is the ANC's recommendation and it is reduced to writing. The Board finds this is not the situation in the subject application.

18. Approximately 210 citizens in the community signed petitions supporting the applicant's project. Also, six area residents testified in support. There were also letters of record in support of the application.

19. The Dupont Circle Citizens Association and two local property owners testified in opposition at the public hearing. A petition with thirteen signatures in opposition was submitted to the record. The bases of the opposition were that the property should be completely residential, that the property should be restored to its previous uses of commercial on the first floor and residential on the second floor and that it was the expensive plans of the developer-owner that were creating such high renovation costs. In general, the opposition argued that the subject neighborhood was losing its residents as a result of the many conversions of property that were taking place and that the poor and minorities were being displaced.

20. The Board, in addressing the concerns of the opposition, finds that the applicant has no burden to prove that the entire property cannot be used for residential purposes. Secondly, the applicant's intent to devote all of the space permitted as a matter-of-right to commercial use is not prohibited under the Zoning Regulations. As to the approximately one-third of the space of the second floor for which the variance is sought, the Board finds that based on Findings 10, 12, 14 and 22, the relief can be granted. Thirdly, the Board finds that the subject property was

vacant when the applicant purchased it. There was no displacement of persons on his part.

21. The opposition submitted no evidence of a comparable building in the immediate area to the subject building wherein a two-story building can be, as a matter-of-right, put to a split use on a second floor, commercial and residential.

22. The Board requested the submission of additional data from the parties after the public hearing on the issue of economic feasibility of residential and commercial units in the vicinity of the subject site. Parties in opposition presented no such data while the applicant submitted substantive data supporting its position at the public hearing.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the requested variance is an area variance, the granting of which requires the showing of an exceptional or extraordinary condition of the property which creates a practical difficulty for the owner.

The Board concludes that the subject site is affected by several unusual and exceptional circumstances. The Board notes the size and layout of the existing structure, its present burnt-out condition and the need to remodel, renovate and rehabilitate a structure in an historic district, and that the total commercial FAR proposed will be 1.805 which constitutes only a .305 FAR variance. The total residential FAR will be .695. The Board concludes that there is a practical difficulty in remodeling and using the structure under the present regulations of the C-2-A District with only one-third of the second floor being used for residential purposes and the remainder of the building being used for commercial purposes. The Board further concludes that strict application of the regulations would work a practical difficulty on the applicant and that the elements necessary to grant a variance are inherent in the property.

The Board further concludes that the requested variance relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and maps. It is therefore ORDERED that the application be GRANTED.

VOTE: 5-0 (Douglas J. Patton, Walter B. Lewis, Connie Fortune, William F. McIntosh and Charles R. Norris to GRANT).

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

ATTESTED BY: Steven E. Sher  
STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER: JUL 19 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 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.