

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13718, of Ronald Chancellor, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the use provisions (Sub-section 5102.3) to use the subject premises as an amusement arcade, not sexually oriented, in a C-2-A District at the premises 3522 - 12th Street, N.E., (Square 3381, Lot 31).

HEARING DATE: March 24, 1982
DECISION DATE: March 24, 1982 (BENCH DECISION)

FINDINGS OF FACT:

1. The subject site is located on the west side of Twelfth Street, N. E. between Monroe and Newton Streets and is known as premises 3522 12th Street, N. E. It is zoned C-2-A.

2. As evidenced by the statement marked as Exhibit No. 5 of the record, the applicant proposes to lease the subject premises as an amusement arcade with pinball and other video games, not sexually oriented.

3. The subject site is improved with a one-story, brick building with storefront windows. The records of the Central Permit Branch indicate that the premises were last used as a print shop under Certificate of Occupancy No. B-97837, dated April 21, 1976.

4. The property was properly posted by the applicant's designated agent, as evidenced by the Affidavit of Posting on March 17, 1982. Notices were properly sent to property owners within 200 feet of the property, the applicant's designated agent and the affected Advisory Neighborhood Commission.

5. The letter of notice, marked as Exhibit No. 11, to the applicant's designated agent clearly indicated the Public Hearing date and that the hearing was scheduled to begin at 9:00 A.M. When the application was called at 10:50 A.M., there was no one present to represent the applicant.

6. The Office of Planning and Development, by memorandum dated March 19, 1982, recommended that the application be denied. The OPD's recommendation was based on its opinion that there were no unique situations or conditions of the subject property which would prohibit its

use in accordance with the C-2-A District in which it is located. The Board concurs with the OPD's recommendation.

7. By letter dated March 22, 1982 and marked as Exhibit No. 19 of the record, Advisory Neighborhood Commission 5-A opposed the granting of this application.

8. There was opposition to the application present at the public hearing and in the record.

CONCLUSIONS OF LAW AND OPINION:

Based on the evidence of record, the Board concludes that the applicant is seeking a use variance, the granting of which requires proof of a hardship that is inherent in the property itself which would preclude the use of that property for purposes for which it is zoned. The Board concludes that there is no evidence of such hardship contained in the record. The Board notes that the applicant was not present at the public hearing to present evidence to prove his case, although as shown in Findings of Fact Numbers 4 and 5, the applicant's designated agent was obviously aware of the hearing date and time. The Board concludes that the applicant and his agent have not met the burden of proof necessary for the granting of a use variance.

The Board further concludes that the variance 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 be DENIED.

VOTE: 4-0 (Walter B. Lewis, Connie Fortune, William F. McIntosh and Douglas J. Patton to DENY; Charles R. Norris not present, not voting).

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 - 6 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."