

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 13757, of Robert V. Staton, pursuant to Sub-section 8207.2 of the Zoning Regulations, for special exceptions under Sub-section 7104.2 to change a non-conforming use from automatic laundry, first floor, to general offices, first floor, and under Sub-section 7105.2 to extend the non-conforming use to the basement in an R-4 District at the premises 1101 East Capitol Street, S.E., (Square 989, Lot 71).

HEARING DATE: May 26, 1982  
DECISION DATE: June 2, 1982

FINDINGS OF FACT:

1. The subject property is located on the southeast corner of the intersection of Eleventh and East Capitol Streets, S.E. in an R-4 zone District at premises known as 1101 East Capitol Street, S.E.

2. The site is presently improved with a three story plus cellar brick structure.

3. The top two floors of the structure are devoted to residential use. The ground floor was most recently used as a laundromat pursuant to Certificate of Occupancy No. B-99470, dated September 7, 1976.

4. The Board in BZA Order No. 13006, dated November 1, 1979, granted permission to J.C. Associates to use the first floor of the subject premises as an office for an architect, doctor, dentist, engineer or similar professional person serving the local community. The use was never instituted, and the approval lapsed. The subject applicant acquired the property in 1982 and has since located a prospective tenant, the Robert Herrema Associates, Inc.

5. The tenant proposes to use the first floor as offices for its real estate development business. The tenant maintains his personal residence within one block of the subject premises.

6. The floor below the proposed office space, although developed as a basement is a cellar since its ceiling is less than four feet above the adjacent finished grade. It is used for storage and contains the hot water heaters and furnace. The cellar is connected to the first floor through an interior stairway.

7. The evidence reflects that the first floor of the property was designed for a commercial use.

8. The tenant testified that the maximum number of persons working in the real estate development office, including part-time workers, would be six. He would commence with four consisting of himself, his wife, a bookkeeper-secretary and perhaps an architect. The hours of operation would be from 9:00 A.M. to 5:00 P.M., Monday through Friday. Approximately three persons a day would visit the site.

9. The tenant proposes to erect no signs on the site. He stated he is well known. His personal cards would advise clients of his office.

10. The property occupies almost 100 percent of the lot. No on-site parking can be provided. There are bus stops within one block of the site. A subway stop is approximately six blocks away. On East Capitol Street, one can park without a permit until 4:00 P.M. There are two-hour residential parking restrictions on 11th and 12th Streets and on North Carolina Avenue.

11. Sub-section 7104.2 of the Zoning Regulations provides that a Class II non-conforming use may be changed to a use which is permitted in the most restrictive district in which the existing non-conforming use is permitted. The laundromat and the proposed office use are both first permitted in a C-1 District.

12. The Office of Planning and Development by report, dated May 21, 1982, recommended that the application be denied. The OPD reported that it was of the opinion that the proposed general office use of the subject premises is not a neighborhood facility and will be objectionable to it. The proposed non-conforming use which would double the amount of commercial space, would adversely affect the present residential character of the neighborhood. The OPD stated that the noise and vehicular traffic that the proposed use would generate will have an adverse impact on the area. In conclusion, OPD found that this application does not meet the test pursuant to Sub-section 8207.2 and Sections 7104 and 7109 of the Zoning Regulations. The Board, for reasons stated below, does not concur in the OPD recommendation.

13. The Capitol Hill Restoration Society, by letter dated May 16, 1982, reported as follows:

"1. The Society does not oppose the granting of a special exception to permit the premises in question to be used as a professional office by an architect, dentist, engineer, physician, or similar professional serving the local community, or as a real estate development or management office serving the local community;

2. The Society opposes the granting of a special exception to permit the use of the premises in question as general offices without such a restriction as stated above."

The CHRS noted that in 1979 a similar application for office use of 1101 E. Capitol Street, Case No. 13006, was filed with the BZA. The position of the Capitol Hill Restoration Society was substantially the same as its current position stated above. The BZA at that time granted the special exception subject to the restrictions suggested by the Society. The Board will impose such a condition regarding the use of the property.

14. Advisory Neighborhood Commission 6B, by letter dated May 26, 1982, reported that it met on Tuesday, May 25, 1982, and voted 10-0 with one abstention to support an application for a special exception that would limit usage on the first floor and basement to an architect, doctor, dentist, engineer, real estate developer or similar person/persons serving the local community. The ANC noted that the applicant, through his attorney, agreed to this amendment of the original application. The ANC stated that a local real estate developer wishes to use the first floor and basement of this property. The use by a real estate developer would follow the ANC's belief that the granting of the relief requested in the R-4 District should be of service to the neighborhood. The Board concurs in the ANC's recommendation.

15. There was one letter on file in opposition to the application on the grounds that prior commercial uses in the subject property were not successful and the opposition preferred that the neighborhood return to complete residential use. The Board finds that the applicant is under no burden to use the property for a residential purpose. Because the building houses a valid non-conforming use, the applicant may seek the change to office use.

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 proof that the applicant has complied with the requirements of Sub-sections 7104.2 and 8207.2 of the Zoning Regulations. The Board concludes that the applicant has met its burden of proof. The proposed use is permitted in the most restrictive district in which the former use is permitted. The Board further concludes that the change of non-conforming use represents a move to a less intense use and that the change will not adversely affect the present character or future development of the neighborhood. The proposed use will serve the neighborhood in which it is located. The use will be in harmony with the general purpose and intent of the Zoning Regulations. The Board also concludes that it has accorded to the ANC the "great weight" to which it is entitled.

Accordingly, it is ORDERED that this application is hereby GRANTED SUBJECT to the CONDITION that the use of the first floor and cellar of the subject premises as offices is limited to the real estate development office of Robert Herrema Associates, Inc.

VOTE: 3-0 (Walter B. Lewis, Connie Fortune and Charles R. Norris to GRANT; Douglas J. Patton and William F. McIntosh not present, not voting).

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

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

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.

FINAL DATE OF ORDER: SEP 20 1982 .