

will typically operate between 8:30 A.M. and 5:30 P.M., with some evenings and weekend hours.

15. The historic preservation consultant for the applicant testified as to the historical background of the buildings and their architectural features. The proposed plan is to preserve as much of the interior decorative features of the buildings as possible including sculptured panels, curved archways, wooden handrails and fireplace mantels. The consultant also testified as to the historical and architectural uniqueness of the buildings and their significant contribution to the character of both the Massachusetts Avenue and Dupont Circle historic districts.

16. The subject properties lie within the boundaries of both the Massachusetts Avenue and Dupont Circle Historic Districts. The proposed plan has been reviewed by the Joint Committee on Landmarks and conceptual design approval has been received.

17. By Zoning Commission Order No. 282 dated June 14, 1979, the subject property was rezoned from R-5-D to SP-1.

18. Massachusetts Avenue is a heavily traveled arterial street. Traffic is somewhat constrained in front of the subject site as it meets Dupont Circle. A bus stop directly in front of the site is very active as a main subway/bus transfer. An entrance to the Dupont Circle Metro stop is 100 feet north of the site on 20th Street.

19. The applicant testified that a letter of agreement had been entered into with the Diplomat Parking Corporation to provide for the lease of at least six parking spaces in the garage located at 1776 Massachusetts Avenue, N.W. for the use of the occupants of the subject structures.

20. The traffic consultant for the applicant testified that, although the proposed use will generate automobile traffic without parking facilities on site to accommodate it, the parking impact will not necessarily be greater than that of other permitted uses on this site. The witness concluded that considering the leased spaces, the excellent transit service on Massachusetts and Connecticut Avenues and Metrorail directly across 20th Street, the proposed use will not create dangerous or other objectionable traffic conditions. The Board so finds.

21. The witness further testified that within a three block walk of the site there were eight parking facilities available for the public. Three of the facilities were closer to the site than the one selected to provide parking, but were not chosen since they could not guarantee six spaces for the exclusive use of the applicant.

22. The applicant testified that because of the structural difficulties, the historic character of the buildings and the location of the buildings in a predominantly non-residential area, the most feasible use for the structure is the proposed SP-1 office use.

23. The Zoning Regulations for an SP District permit a non-residential floor area ratio of 2.5, or 11,879.9 square feet for both buildings. The buildings would contain 13,662 square feet, requiring a variance of 1,788.1 square feet or fifteen percent.

24. Six off-street parking spaces are required and none are provided, requiring a variance of 100 percent.

25. The architect for the applicant testified that it is impractical for the applicant to comply with the floor area ratio and parking requirements. Conversion to mixed use in order to fully comply with the FAR requirements would destroy the historic interior of both buildings. The proposed small rear addition, while minimally increasing the FAR variance requested, is needed in order to avoid destroying the interiors of the buildings while bringing both buildings into compliance with the Building Code. These requirements are less stringent for the proposed office use than they would be for conversion to residential use and thus facilitate the maximum preservation of both buildings. Additionally, the lot occupancy of the existing buildings and the lack of alley access precludes parking on-site unless the applicant were to provide underground parking. This is not feasible to do without destroying the historic buildings. The Board concurs with the architect's findings.

26. The Office of Planning and Development by report dated October 27, 1982, and by testimony presented at the public hearing, recommended that the application be approved. In OPD's opinion, the application met the intent and purposes of the criteria of Paragraph 4101.44. The OPD was also supportive of the variance from the parking requirement and the FAR variance. In light of the existing conditions of the site, including the lack of alley access, the extensive lot occupancy and the need for improving the vertical circulation of the structures by adding the addition, the OPD was of the opinion that the parking and FAR variances are reasonable and should be granted. The Board concurs with the OPD's recommendation.

27. There were some forty letters, of record, in support of the application. Three persons testified at the public hearing in favor of the application. The Dupont Circle Conservancy, Inc. testified in favor. The grounds for the support were basically that:

- A. The subject buildings make an important contribution to the architectural character of Massachusetts Avenue and should be restored to their original grandeur.
- B. The proposed use is compatible with the surrounding uses which include a law office, a non-profit organization, a hotel and a chancery.
- C. The relief requested would have no adverse impact on the neighborhood.
- D. Conventional general theories about encroachment of office use upon residential neighborhoods do not apply in the instant use since this block of Massachusetts Avenue is not and has not been for years essentially residential in character.

28. The Dupont Circle Citizens Association opposed the application. The Association argued that historic preservation is not the issue before the Board but whether an office use can be justified where the specific tenants are unknown, where the degree of intensity of the use is unknown, where there is no parking on site and where there is no loading and unloading space provided. The Association argued that the parking and traffic problems in the immediate area are extremely acute due to the lack of on-street parking spaces in the area, the many buses that travel the streets surrounding the site, the great activity of pedestrians at the Dupont Circle Metro stop, the lack of an alley in the subject square, the existence of a small four foot wide alley to the rear of the site and a bus stop directly in front of the site. The combination of the above factors has made illegal parking endemic to the area. The opposition further argued that the applicant had failed to establish that all-day commuter parking was available at the site where the six parking spaces were to be located. The Association further argued that the site could be put to residential uses and that the vacancy in the building was a deliberate decision by the owner to secure a commercial tenant which would provide a greater income from the property. The opposition was further concerned that the applicant had produced no evidence that there was a covenant or easement agreement with a historic trust that would preserve the subject property from future abuse.

29. The Board, in addressing the concerns of the opposition finds that based on Finding Nos. 19 and 20, the

applicant has met the criteria of Sub-paragraph 4101.442 that the use will not create dangerous or other objectionable traffic conditions. The Board is of the opinion that although the use will generate some automobile traffic, the parking impact will not necessarily be greater than that of other permitted uses on the site. The Board further notes that regardless of what use the premises were put to, there would always be the concern of loading and unloading because of a lack of an alley in the square and the small four foot wide walkway to the rear of the site. As to the issue of residential use, the Board finds that the applicant is seeking her relief through a special exception, not a use variance. The applicant has no burden to prove that the site can not be used for residential purposes. The Board concurs that historic preservation in and of itself is not the issue. It is, however, important in terms of the floor area ratio and parking requirements relief being sought. Historic preservation does impose restraints as previously stated. Lastly, the Board would encourage the applicant to enter into a covenant or easement to ensure the preservation of the structures. The Board further notes that any future demolition or alteration of the building would be subject to review under the Historic District and Historic Landmark Protection Act of 1978.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing Findings of Fact and the evidence of record, the Board concludes the applicant is seeking a special exception and variances. The granting of the special exception requires that the applicant must demonstrate compliance with Paragraph 4101.44 and Sub-section 8207.2 of the Zoning Regulations. The Board concludes that the applicant has so complied. The Board concludes that the use, height, bulk and design of the structure will be in harmony with existing uses and structures on neighboring properties. The Board further concludes that the use of the structure will not create any dangerous or other objectionable traffic conditions.

The Board further concludes that the approval of the special exception will be 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 Map.

As to the FAR and parking variances, the Board concludes that the variances requested are area variances, the granting of which requires the showing of a practical difficulty. The Board concludes that the existence of structures on the subject site which occupy eighty percent of the site, the fact that the existing buildings are historic and are located in two historic districts, and the fact that there is no alley access to the subject property,

constitute exceptional conditions. Because of these exceptional conditions, the applicant has demonstrated that the strict application of the FAR and parking requirements would result in a practical difficulty on the owner of the property.

The Board is further of the opinion that the relief can be granted without substantially impairing the intent, purpose and integrity of the zone plan. The Board concludes that it has accorded to the ANC the "great weight" to which is is entitled. Accordingly, it is ORDERED that the application is hereby GRANTED.

VOTE: 4-0 (Walter B. Lewis, Carrie L. Thornhill, William F. McIntosh and Charles R. Norris to grant; Douglas J. Patton 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: APR 11 1983

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.

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