

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 13857, of Houses on The Hill, Inc., 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 real estate offices to general offices in an R-4 District at the premises 109 11th Street, S.E., (Square 968, Lot 818).

HEARING DATE: November 10, 1982  
DECISION DATE: December 1, 1982

FINDINGS OF FACT:

1. The subject property is located on the west side of 11th Street between North Carolina and Independence Avenues and is known as premises 109 11th Street, S.E. It is in an R-4 District.

2. The subject site is improved with a one story structure which is currently vacant.

3. The structure was originally built in 1936 for use as a laundry in the First Commercial Zone. A High's Dairy store occupied the building from 1956 until 1968 when the site was burned during the riots. High's never reopened the store and it remained dormant until 1972. Towne Investment and Management, Inc. used the site for its general offices from 1972 to 1975 pursuant to approval granted in BZA Application No. 11065. The applicant purchased the building in 1975 and pursuant to the Board's Order in Application No. 11839, a change of non-conforming use was permitted for use as a real estate office. The site was used as such until approximately one year ago and has been vacant and on the market until recently.

4. The applicant has sold the subject property, subject to BZA approval to the American Committee on East-West Accord. The contract purchaser, under rulings of the U.S. Internal Revenue Service and the D.C. Government, is recognized as a tax deductible organization engaged in educational activities.

5. The said Committee is an independent, educational organization whose aim is to improve East-West relations with special focus on U.S.-Soviet affairs. The purpose of the Committee is to strengthen public understanding of initiatives to control and reduce nuclear arms and to

encourage mutually beneficial programs in science, culture and nonmilitary trade. Functions of the Committee include holding press briefings and conferences, publishing books, meeting with editorial boards of major newspapers and magazines, appearing on television and radio, writing op-ed pieces and magazine articles, testifying before Congress, sponsoring films and ads, consulting with the legislative and executive branches of government, and publishing the "East/West OUTLOOK." The applicant seeks the Board's approval in order to allow the Committee to use the site as its headquarters.

6. The application was advertised for a change of a non-conforming use to general offices. In the interim the applicant has obtained, as aforementioned, a purchaser which is a non-profit organization. It is proposed to limit the use of the site to a non-profit organization.

7. Pursuant to Sub-section 7104.2 of the Zoning Regulations, 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. A non-profit office use is first permitted with Board approval as a special exception in the SP Zoning District. Real estate offices are first permitted in a C-1 District. Accordingly, pursuant to Sub-section 7104.2, a change in non-conforming use may be granted subject to the conditions specified in Section 7109.

8. There are approximately 300 members of the American Committee on East-West Accord. They are located across the United States. The Committee now employs five members at its headquarters. Sub-committees meet approximately three times a year at the headquarters. They arrive usually by cab. About three persons a day visit the headquarters. The hours of operation are from 8:30 A.M. to 6:00 P.M.

9. The Board finds that the nature of the organization is such that the proposed use is not a neighborhood facility. However, given the low level of intensity proposed, the use will not be objectionable.

10. Due to the lot occupancy of the existing building and the fact that there is no alley access, no on-site parking can be provided. Under the Zoning Regulations, there is no requirement for on-site parking. There are bus stops within one block of the site and a subway stop is approximately five blocks away. On East Capitol Street, one can park without a permit until 4 P.M. There are two hour residential parking restrictions on 11th and 12th Streets and on North Caroline Avenue. The contract purchaser testified that parking for employees can either be provided at their present parking facility, located in the subject

neighborhood, or in nearby private garages. Additionally, all employees will be encouraged to use public transportation.

11. The prior use as real estate office operated seven days a week. It had clients come to the office regularly.

12. The contract purchaser does not intend to alter any of the architectural features of the site. Only a small sign will be erected identifying the Committee. The sign will in all respects meet the requirements of the sign regulations for the District of Columbia.

13. There were numerous letters of support in the record from the adjacent property owners and from other residents of the neighborhood within 200 feet of the subject application. The support was based on the grounds that the proposed use will be less intense than the prior use of the site in terms of noise, litter and traffic, both pedestrian and vehicular. Many of the neighbors reported that since the real estate office closed, the site had become shabby in appearance and run-down.

14. The Capitol Hill Restoration Society, by letter of November 3, 1982, opposed the application. It reported that the property should be used in a way which serves the local community. The proposed use does not serve the local community. Both the current use, a real estate office, and the previous use, a food store, are uses which serve the local community. The application proposes to convert a neighborhood use, a real estate office, to a non-neighborhood use, an office for a non-profit organization. The CHRS believed that the property should be used as an office by an architect, dentist, engineer, physician or similar professional serving the local community, or as a real estate office, or in some other use serving the neighborhood.

15. A property owner at 146 11th Street, S.E. also opposed the application. In addition to the reasons reported by the CHRS, this opponent argued that in granting the subject application, a precedent would be set for opening the R-4 residential area of Capitol Hill to a great variety of commercial uses unrelated to serving neighborhood needs. It would also undermine the long term integrity of the area by permitting a much wider economic competition for limited commercial space in residential areas, driving out the small businesses and services which are vital to the health of the neighborhood. Office use would also inhibit the conversion of non-conforming uses, no longer needed, into conforming residential use. He argued further that this is the fifth time since 1968 that this property has been before the BZA for a change from one non-conforming use to another. This is the first time, however, that an

application for a use change has been requested for a non-neighborhood related activity. Also, the opposition argued that the applicant has not demonstrated anywhere in the application that there are not suitable commercial or residential uses for which this structure could be used.

16. The Board, in addressing the concerns of the opposition, finds that under the Zoning Regulations, the applicant has no burden to prove that the proposed use is a neighborhood facility. Section 7109 of the Zoning Regulations provides that the Board shall find that the proposed use is a neighborhood facility or the type of use which although not a neighborhood facility will not be objectionable. Secondly, the Board has consistently held that all applications will be determined on their own merits. No precedents are automatically set by granting an application. Also, the applicant seeks its remedy through special exception relief, not a use variance. The applicant has no burden to prove that the subject site cannot be used for residential or suitable commercial uses as suggested by the opposition.

17. Advisory Neighborhood Commission 6B made no recommendation on the application.

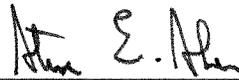
CONCLUSIONS OF LAW AND OPINION:

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 also concludes that although the proposed use is not a neighborhood facility, it will not be objectionable to the neighborhood. The Board further concludes that the change of non-conforming use represents a move toward a less intense use and that the change will not adversely affect the present character or future development of the neighborhood and that the use will be in harmony with the general purpose and intent of the Zoning Regulations. Accordingly, it is ORDERED that this application is hereby GRANTED SUBJECT to the CONDITION that the use is limited to the occupancy by the American Committee on East-West Accord.

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

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

ATTESTED BY:

  
\_\_\_\_\_  
STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER: \_\_\_\_\_

JAN 18 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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