

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13930, of Mariam Mizel, 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 of beauty shop, first floor, to barber shop, first floor, in an R-5-B District at premises 1810 Florida Avenue, N.W., (Square 131, Lot 51).

HEARING DATES: April 13, and June 8, 1983
DECISION DATE: June 8, 1983 (Bench Decision)

FINDINGS OF FACT:

1. The subject property is located three structures from the southwest corner of the intersection of Florida Avenue and Eighteenth Street, N.W., and is known as premises 1810 Florida Avenue, N.W. The site is in an R-5-B District.

2. The application was scheduled initially for the public hearing of April 13, 1983. The hearing was continued to June 6, 1983, because the applicant had not complied with the Supplemental Rules of Practice and Procedure before the Board of Zoning Adjustment in that the property was not properly posted with notice of the hearing. The Chairman advised the applicant to cease any ongoing operations at the subject premises until such time that a proper certificate of occupancy and license was obtained. The Chairman noted that the Zoning Administrator would be advised of the current violation of operating a business without a valid certificate of occupancy.

3. The subject lot contains approximately 1,570 square feet. It is improved with a relatively small two-story, brick semi-detached structure.

4. The applicant proposes to use the ground floor of the subject structure for a non-conforming barber shop. The upper floor is available and suitable for residential use. The applicant intends to lease out the residential unit.

5. The area surrounding the subject site is characterized by a variety of residential uses and types of structures. Many of the residential structures have been newly renovated, but there remain a fair number of vacant and/or deteriorating residential structures in the area. The northeastern property line of the subject premises is the boundary between the R-5-B District, within which the

subject premises is located, and a C-2-A District which runs along Eighteenth Street, N.W. There is a commercial health food store immediately adjacent to the subject premises with frontage on Florida Avenue. To the southwest of the subject premises are residential uses located in the R-5-B District. Within the Eighteenth Street C-2-A commercial corridor, low scale retail and service oriented businesses dominate. However, there is an occasional low bulk, multi-family structure interspersed among the commercial uses. Within 300 feet of the subject site is an R-5-C District wherein the Washington Hilton Hotel is located.

6. The use history of the subject premises is not clear. Some prior uses appear to include a grocery store and a beauty shop. A previous Board Order, No. 6965 granted a use variance for an upholstering and decorating shop at this location. The Board based its approval on the close proximity of a C-2 District and the compatibility of the proposed use with that zoning designation. It is however, unclear whether this use was ever actually established. No certificate of occupancy exists to indicate that the use was established.

7. The applicant has leased the premises for five years to Sylvester Williams. Mr. Williams was formerly engaged in a barber practice at a location near the subject area. He has been a licensed barber since 1946 and is a well-known and respected member of his profession. The hours of the proposed shop would be from 9 A.M. to 6 P.M., six days a week. The applicant intends to engage two additional barbers. Eventual plans for services include amenities such as manicuring and shoe shining. At present, there is no other similar facility in the vicinity of the subject site. The barber facility will be a small, neighborhood-oriented service. The majority of the shop's clients would walk to the site. No appreciable increase in vehicular traffic is expected due to the proposed use. No loading facilities or customer parking areas are proposed. On-street parking is permitted on portions of Florida Avenue and on the adjacent side streets. Residential permit restrictions apply to the adjacent side streets but not to Florida Avenue.

8. The most recent lawful use of the premises was a non-conforming Class II beauty salon on the ground floor as evidenced by Certificate of Occupancy No. B5603. A beauty salon is first permitted in a C-1 District.

9. If approved by the Board of Zoning Adjustment, 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. In exercising its authority under Sub-section 7104.2, the Board shall find the

new use is either a neighborhood facility or the type of use which although not a neighborhood facility would not be objectionable.

10. The Office of Planning, by report dated June 6, 1983, recommended that the application be conditionally approved. The Office of Planning reported that the proposed barber shop would be a neighborhood facility. The relatively small size of the shop, estimated to be between 600 and 1,000 square feet, and the understated sign advertising the premises, support this contention. Given the location of the site on Florida Avenue, a congested minor arterial, the Office of Planning was of the opinion that it is highly unlikely that anyone from outside the neighborhood would drive to this location. It appeared to the Office of Planning that the subject structure occupies less than fifty percent of the lot. No additions are contemplated or necessary to accommodate the proposed barber shop. The Office of Planning further reported that the proposed barber shop would not compromise the neighborhood's present character. The surrounding area is currently in a state of transition. This transition is evidenced by the large number of newly rehabilitated residential and commercial structures, the large number of structures currently undergoing rehabilitation, and the considerable number of vacant, boarded structures offering future renovation and reuse potential. If and when the present area conditions improve, the proposed use would not adversely impact the area. The intensity of use proposed for the subject premises is of no greater magnitude than the adjacent health food store, such that the proposed barber shop's contribution of noise, traffic, and other deleterious effects to the block is likely to be marginal. Signage at the subject premises is limited to the name of the establishment painted directly on the front display window. The Office of Planning recommended that approval of the application be conditioned by not allowing any external neon or gas tube display as signage at the premises. Such restricted signage would be consistent with adjacent uses. The Office of Planning reported that, with the above condition, the proposed barber shop would satisfy the applicable special exception criteria of Sub-sections 8207.2 and 7104.2 and Section 7109 of the Regulations and, therefore, warranted approval. The Board concurs with the reasoning of the OP and agrees with its recommendation.

11. Advisory Neighborhood Commission 2B offered no position on the subject application.

12. An area resident proposed that the Board grant the application on a temporary basis. The resident testified that the zoning classifications of the subject and surrounding areas are currently being studied by Government agencies. Dependent upon the final determinations, the

zoning designation of the subject property may be changed. The Board will limit approval to five years, the length of the lease between the applicant and the tenant.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and evidence of record, the Board concludes that the applicant is seeking a special exception, the granting of which requires proof that the requirements of Sub-sections of 7104.2 and 8207.2 have been fulfilled. The Board concludes that the required showing regarding the special exception requested has been made. The Board concludes that the proposed use is not only a neighborhood facility, but that, in addition, it is a use which would not be objectionable. The Board further concludes that the proposed barber shop will not adversely affect the present character or the future development of the neighborhood.

The Board further concludes that the special exception can be granted as 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 maps. It is therefore ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:

1. Approval shall be for a period of FIVE YEARS from the date of this Order.
2. No neon or gas tube display shall be located on the outside of the building, nor shall any such displays, if placed inside the building, be visible from the outside of the structure.

VOTE: 5-0 (Douglas J. Patton, Carrie Thornhill, William F. McIntosh, Charles R. Norris and Maybelle T. Bennett to GRANT).

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

ATTESTED BY:



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER:

JUL 13 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 CONSUMER AND REGULATORY AFFAIRS.

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