

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13979, of Madison Boyd, Jr., 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 "restaurant seating less than seventy-five, first floor" to administrative offices of a mechanical contracting company and home improvement contracting, first floor, in an R-4 District at premises 1727 North Capitol Street, N.E., (Square 3512, Lot 19).

HEARING DATE: July 13, 1983
DECISION DATE: July 13, 1983 (Bench Decision)

FINDINGS OF FACT:

1. The subject application appeared on the preliminary agenda at the public hearing due to the absence of an affidavit of posting in the record. The Supplemental Rules of Practice and Procedure before the BZA require that the property be posted at least fifteen days prior to the public hearing and that an affidavit evidencing such posting be submitted at least five days prior to the public hearing. The applicant testified that the property was properly posted more than fifteen days prior to the public hearing. The applicant did not submit the affidavit of posting five days prior to the public hearing because he was out of town. The applicant testified further that both he and his associate believed that the affidavit was to be submitted to the record at the time of the public hearing. The applicant's associate corroborated the applicant's testimony as to the date of posting and further testified as to the maintenance of the posting. There was no opposition to the application. The Chairman waived the Rules to accept the affidavit of posting and the application was heard as scheduled.

2. The subject property is located at the northeast corner of the intersection of North Capitol Street and Randolph Place and is known as premises 1727 North Capitol Street, N.E. It is zoned R-4.

3. The subject property is improved with a three-story and basement semi-detached brick structure. The site is rectangular in shape.

4. The square in which the subject site is located contains other structures which are all residentially occupied. To the south, across Randolph Place is a corner

variety store followed by other commercial uses in the C-2-A District. To the west across North Capitol Street is a grocery store and a funeral parlor north of Randolph Place and a church south of Randolph Place.

5. The subject premises have been vacant for several years. The most recent use of the site was as a restaurant seating less than seventy-five persons on the first floor, pursuant to Certificate of Occupancy No. B-79704 dated January 11, 1972.

6. The applicant proposes to occupy the first floor of the subject premises as offices for Beltway Mechanical, Inc. with some incidental storage on the basement level. The upper floors are proposed to be renovated and used for two to four apartment units.

7. If approved by the BZA, a Class II nonconforming use may be changed to a use which is permitted in the most restrictive district in which the existing nonconforming use is permitted.

8. The current nonconforming use of the first floor of the premises as a restaurant is a Class II nonconforming use. A restaurant and a general office are both first permitted as a matter of right in the C-1 District. The existing certificate of occupancy is for the first floor only. Any extension of the proposed use into the basement area would require further action from the Board and such extension has not been applied for at this time.

9. In exercising its authority under Sub-section 7104.2, the Board shall find that 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 proposed office would have only two employees on-site and little or no walk-in type business is expected. The hours of operation would be from 9 A.M. to 6 P.M. Monday through Friday, and 9 A.M. to 12 P.M. on Saturday. Due to the nature of the business, deliveries and client contact take place at the job site, not in the offices. Based on the limited number of persons expected to come to the subject location, the applicant believes that the proposed use will have a less objectionable impact on the neighborhood than the prior use as a restaurant which generated considerable customer traffic and had extended hours of operation. The Board so finds.

11. The proposed renovation of the subject structure, as shown on Exhibit No. 3 of the record, is in keeping with the existing residential uses in the square. Only one small non-illuminated sign will be used to identify the use.

12. There is no on-site parking provided. However, the north side of Randolph Place permits two-hour residential parking and the south side provides metered parking to serve the commercial uses located in the C-2-A District. The applicant testified that, as a rule, on-street parking is available during all hours that the proposed office will be in operation. In addition, the applicant is generally in the field rather than at this site and his associate lives within walking distance of the site so there will be little parking demand generated by the employees of the proposed use.

13. The Office of Planning, by memorandum dated June 27, 1983, recommended approval of the subject application with the following conditions:

1. If there is a sign to advertise the use, there only be one sign not measuring more than 144 square inches in dimension.
2. The exterior facade of the structure should be maintained in a clean and attractive manner so as to be visually harmonious with its residential neighbors.

The Office of Planning was of the opinion that, as conditioned, the proposed change of nonconforming use would be consistent with the criteria of Section 7109 and Sub-section 8207.2 of the Zoning Regulations. The Board concurs with the Office of Planning's findings.

14. Advisory Neighborhood Commission 5C made no recommendation on the subject application.

15. There was no opposition at the public hearing or of record.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of 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 so complied. The proposed use is permitted in the most restrictive district in which the former use is permitted. The Board also concludes that the change of nonconforming use represents a move toward a less intense use and that the change as hereinafter conditioned 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 following CONDITIONS:

1. Approval shall be for a period of FIVE YEARS from the date of this order.
2. No more than three employees shall be located at the subject premises.
3. The hours of operation shall not exceed from 9 A.M. to 6 P.M., Monday through Friday.
4. The facade of the subject premises shall be renovated as shown on page 2 of Exhibit No. 3 of the record.
5. There shall be no storage of the goods of the trade other than for display purposes at the subject premises.
6. Any sign used to advertise the use shall be non-illuminated and shall not exceed 144 square inches in size.

VOTE: 4-1 (Lindsley Williams, Carrie Thornhill, Douglas J. Patton and Charles R. Norris to grant; William F. McIntosh opposed to the motion).

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

ATTESTED BY:



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER:

SEP 20 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.