

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 13996 of Francois R. LePelch, 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 beauty salon, first floor, to yarn and knit design shop, retail sales, first floor, in an R-4 District at premises 901 East Capitol Street, S.E., (Square 942, Lot 58).

HEARING DATE: July 27, 1983  
DECISION DATE: July 27, 1983 (Bench Decision)

FINDINGS OF FACT:

1. The subject property is located at the southeast corner of the intersection of 9th and East Capitol Streets, S.E., at premises known as 901 East Capitol Street, S.E. It is in an R-4 District.

2. The site is rectangular in shape with 19.29 feet of frontage on East Capitol Street and eighty feet of frontage on 9th Street. It is improved with a two-story masonry structure. There is a paved area, for four cars at the rear of the building with access from 9th Street. The first floor of the structure is presently vacant. The second floor is presently used by a physician.

3. Prior to occupancy by the physician, the second floor was used as general offices for a non-profit organization by the Latin American Manufacturer's Association (LAMA) pursuant to Certificate of Occupancy No. B12936 dated March 29, 1982. In July, 1982, in Application No. 13707, LAMA sought a special exception under Sub-section 7107.2 in order to extend its operations to include use of the first floor. The Board denied LAMA's request, finding that the proposed use was not a neighborhood facility and would not offer services to the immediate neighborhood, that the applicant failed to carry the burden of proof with regard to the amount of noise, traffic and other deleterious effects the proposed use could reasonably be expected to generate, and that the proposed use was not in harmony with the predominantly residential character of the neighborhood.

4. The subject site is abutted on the east and south by row dwellings and is located in an area characterized by row dwellings used as single-family dwellings and flats and small apartment buildings in the R-4 District.

5. The intersection of 9th and East Capitol Street is characterized by commercial uses. Until approximately two years ago, the first floor of the subject site was actively used as a beauty salon under Certificate of Occupancy No. B-55150 dated April 5, 1966. Directly across 9th Street from the site at the southwest corner of the intersection of 9th and East Capitol Streets is a two-story structure, the ground floor of which is used as a beauty salon. Diagonally across East Capitol Street at the northwest corner of East Capitol and 9th Street is a bank.

6. The first floor facade fronting on East Capitol Street consists of two bay windows. The first floor is accessible from two entrances fronting on East Capitol and 9th Streets respectively. The character of the second floor of the structure is suggestive of residential use although, like the first floor, the second floor has a history of non-conforming use. The second floor is accessible from an entrance on 9th Street.

7. Peter Maida, contract purchaser of the subject property, proposes to relocate "Thistle-Down", a retail yarn and knit fashion design shop, from its current location at 604 East Capitol Street, N.E. to the subject premises. The move is necessitated by the need for additional space.

8. The business activities associated with the proposed use include designing knit wear, retail sales of yarn, reconstruction and restoration of damaged knit fashions, and individualized instruction in knitting and crocheting. Sales and instruction activities would take place on the premises during the hours of operation.

9. The hours of operation would be from 12:00 Noon to 5:30 P.M. Tuesday through Friday and 10:00 A.M. to 5:30 P.M. on Saturday. The store will be closed Sunday and Monday.

10. The applicant will employ two part-time employees. The only time both employees will be at the shop is when one relieves the other.

11. About one delivery per week will be made, by the United Parcel Service.

12. The site has attractive and well maintained landscaping on the exterior which gives the property a strong residential appearance. The applicant proposes to relocate his existing sign which measures approximately ten inches by twenty inches to the subject site.

13. The applicant testified that most of his clients are from the Capitol Hill area or work on Capitol Hill. A survey of clients was conducted in March, 1983, and it was

found that many clients walk to the shop during the day. Some come during lunch or after work when they return home to Capitol Hill or on Saturdays when they are home and not working. The shop serves primarily the residents of Capitol Hill.

14. The applicant testified that he anticipates four to six clients per day. From the beginning of March, 1982, to the beginning of March, 1983, there was an average of 3.3 sales each working day.

15. Pursuant to Sub-section 7104.2, 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. The most recent nonconforming use of the subject property, a beauty salon, is a Class II nonconforming use. A beauty salon is first permitted in a C-1 District. While the proposed use is not expressly enumerated in the list of permitted C-1 uses, the Board finds the proposed use is a permitted C-1 use.

16. The site is located in the Capitol Hill Historic District.

17. The Capitol Hill Restoration Society, by letter dated July 18, 1983 voted unanimous support of the application on the grounds that the proposed use will be in harmony with the general purpose of the Zoning Regulations and it will not tend to affect adversely the use of neighboring residential property. The Society recognized the problems associated with non-conforming uses in residential areas and has consistently opposed uses which do not serve the local residential areas. The Society believed that the proposed use is the type of community-oriented business that is appropriate for the subject site. Many neighbors, who were strongly opposed to the former BZA applications on the site, expressed support or no opposition to the granting of the special exception. The Board concurs with the views and recommendation of the Society.

18. The Office of Planning, by report dated July 20, 1983, recommended approval of the application. The Office of Planning had visited "Thistle-Down's" current location at 406 East Capitol and witnessed the extent to which the proposed use blends harmoniously with its current surroundings. The Office of Planning believed that "Thistle-Down" will do likewise at its new location. Because of the low intensity nature of the proposed commercial use, the Office of Planning believed that the proposed use will not have any adverse effects upon adjoining residential properties. The Office of Planning believed that the proposed yarn and knit design shop is a C-1 use, even though it is not expressly enumerated in the list of C-1 uses. The proposed use could be considered either a hobby shop under Paragraph 5101.33,

item "o," or under the category of "other similar service or retail use," Paragraph 5101.34. The Board concurs with the findings and recommendation of the Office of Planning.

19. Advisory Neighborhood Commission 6B, by letter dated June 28, 1983, advised that it had voted unanimously to support the application. The ANC believe that the use as a yarn and knitting shop is definitely a neighborhood facility as substantiated by the applicant's client survey taken in March, 1983. The Board concurs with the recommendation of the ANC.

20. No one appeared in opposition to the application 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 the applicant is seeking a special exception, the granting of which requires that the applicant comply with the requirements of Sub-section 7104.2. The Board concludes that the applicant has complied with the requirements of Sub-section 7104.2. The proposed use is a neighborhood facility which attracts clients who live and work in the Capitol Hill community. The proposed use will not effect adversely the present character or future development of the neighborhood in accordance with these regulations and the comprehensive plan for the District of Columbia. The first floor of the subject property has been used as a commercial facility and there is no indication that such commercial use has adversely effected the residential character of the neighborhood. The Board concludes that the conduct of the proposed use will be in accordance with the standards of external effects pursuant to Sub-section 6101.6. The Board has considered the general residential character of the neighborhood with occasional nonconforming uses principally at street intersections within not less than 300 feet of the site. The residential uses are located in row dwellings as flats and single family-residences. There are also some small apartment buildings in the area of the site.

The Board concludes that it has considered the arrangement and design of the structure and the type, nature of illumination and design of signs. The structure appears as a commercial structure by the two bay windows on the East Capitol Street facade at the first floor and is accessible from two entrances fronting on East Capitol and 9th Streets, respectively. The Board concludes non-illuminating signs of a small scale are appropriate for the site to further maintain its residential character.

The Board further concludes that the proposed use will not generate noise, traffic, vibration or any other

deleterious external effect. The proposed retail shop will generally attract a walking clientele from the neighborhood. The daily client flow has averaged four to six persons per day. The site provides four off-street parking spaces and loading activities will occur as deliveries by the United Parcel Service once per week.

The Board is of the opinion that the requested relief can be granted without causing substantial detriment to the public good. The Board concludes that it has accorded to the Advisory Neighborhood Commission the "great weight" to which it is entitled.

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. Accordingly, it is ORDERED that the application is hereby GRANTED subject to the following CONDITIONS:

- a. The hours of operation shall not exceed from 10:00 A.M. to 6:00 P.M., Monday through Saturday.
- b. The number of employees shall not exceed three.
- c. The exterior sign advertising the use shall be flush against the wall, shall not exceed twelve by thirty inches in size and shall not be illuminated.
- d. There shall be no illuminated signs or displays located in the windows of the structure.
- e. Landscaping shall be maintained in a healthy growing condition.
- f. Two parking spaces located at the rear of the premises shall be reserved exclusively for the employees and customers of the proposed use and shall be kept free of debris and refuse at all times.
- g. Knitting instruction shall be limited to no more than five persons at one time.

VOTE: 5-0 (Douglas J. Patton, Lindsley Williams, Carrie Thornhill, William F. McIntosh and Charles R. Norris to grant)

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

ATTESTED BY:

  
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STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER: AUG 15 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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