

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14164 of SOME, Inc. (So Others May Eat), pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the prohibition against allowing a subdivision and enlargement of a nonconforming structure housing a nonconforming use (Paragraph 7106.14) and from the lot occupancy requirements (Sub-section 3303.1) to permit an addition to a social service center in an R-4 District at premises 71 O Street, N.W. (Square 616, Lots 870 and 809).

HEARING DATE: July 25, 1984

DECISION DATE: September 5, 1984

FINDINGS OF FACT:

1. The subject property is located on the north side of O Street between North Capitol and First Streets and is known as premises 71 O Street, N.W. It is zoned R-4.

2. The subject property consists of two lots, 870 and 809, which are proposed to be subdivided to create a single lot containing 17,246.25 square feet of lot area.

3. The site is currently improved with a large brick and stone structure which was previously used as the headquarters for the Washington Animal Rescue League. The site is also improved with accessory buildings used for storage and toilet/shower facilities. There is a rear courtyard on the west side of the site enclosed by an eight foot high brick wall. The existing improvements occupy approximately 5,188.25 square feet of the lot area.

4. The applicant proposes to enclose the existing open court area of 3,748.75 square feet. This would result in a total lot occupancy of 8,937 square feet or 51.84 percent of the lot area.

5. The R-4 District permits a maximum lot occupancy of 40 percent. A variance from the maximum lot occupancy of 11.84 percent is therefore necessary to permit the enclosure of the existing open court area.

6. The existing structure is currently nonconforming as to the rear yard requirements. The R-4 District requires a minimum rear yard of twenty feet and no rear yard is provided on the subject site.

7. The property is currently used as a social service center that provides several areas of service. Two meals are served at the premises seven days a week. Breakfast is served at 7:30 A.M. and lunch at 12 Noon. A medical clinic and dental clinic are available from Monday through Friday. Alcoholic counseling and psychiatric services are available on an individual basis. The existing social service center is a nonconforming use in the R-4 District.

8. Paragraph 7106.14 of the Zoning Regulations provides that a structure devoted to a nonconforming use may not be enlarged, except if such enlargement is to be devoted to a conforming use. A variance from that provision of the Zoning Regulations is therefore required.

9. The use of the subject premises as a social service center was originally approved by the Board for a period of three years in its Order No. 12450, dated August 22, 1977.

10. By Order No. 13351, dated January 23, 1981, the Board approved the use of the premises as a social service center for an indefinite period of time.

11. In an R-4 District, a social service center was a use permitted as a special exception with approval of the BZA until 1982, when the Zoning Commission amended the Regulations concerning the location of community based residential facilities. The subject use existed on the site as a conforming use as approved by the Board for five years prior to that time.

12. The area surrounding the subject site includes row dwellings, an apartment house, the old Dunbar High School building, an elementary school, a nonconforming grocery store and some commercial uses along North Capitol Street. Many of the row houses are dilapidated, abandoned or boarded up.

13. As noted in Finding of Fact No. 9, SOME has operated at the subject premises since 1977. SOME has experienced practical difficulties relating to providing its services at the subject site.

14. SOME serves approximately 300 persons for breakfast and an additional 300 persons for lunch. The existing dining room permits service to only seventy people at one time. Other clients are presently required to wait outside, within the enclosed courtyard, until they can be served. The persons waiting for service are thus exposed to inclement weather conditions.

15. The existing shower, toilet and storage facilities which are housed in the accessory building at the rear of

the site are only accessible through the courtyard. Staff and clients are thus required to go outside through the open yard to reach those areas.

16. The existing kitchen and dishwashing area are inadequate to provide efficient operations.

17. The proposed enclosure of the courtyard will allow for the expansion of the dining room, provide more efficient kitchen and dishwashing facilities, and connect the shower and storage areas to the main structure. There will be an enclosed waiting area for clients. The medical and dental clinics will be enlarged to provide storage and examination rooms.

18. The applicant does not anticipate an increase in the intensity of use or services provided. The number of clients patronizing the subject facility is not expected to increase as a result of the proposed expansion. The proposed expansion will enable SOME to improve existing services to its existing clientele in a more efficient and humane manner than is now possible in the existing facility.

19. There will be no increase in the number of staff and volunteers at the facility.

20. The applicant presently provides twenty-one on-site parking spaces on the eastern portion of the subject lot. Clients of the facility either walk to the site or use public transportation. The existing parking is adequate to serve the needs of staff and volunteers at the center.

21. The existing L-shaped courtyard is enclosed by the existing structures and an eight foot high brick wall. These existing brick walls will support the proposed roof enclosure. From street level the existing walls appear to be part of the existing building block.

22. The proposed expansion will not alter the existing footprint of the building and courtyard nor will it affect the visual perception of building mass created by existing structures and walls.

23. The existing walled courtyard was once used to house animals by the Washington Animal Rescue League. The walls provide a substantial buffer between the site and adjacent residential properties. The proposed roof enclosure would provide a further buffer in terms of reducing any noise generated by clients awaiting services within the courtyard, as well as protecting those clients from weather conditions.

24. SOME has invested in substantial improvements to the subject premises, such as equipment necessary for the

medical and dental clinics. Relocation of the facility would create a hardship upon the applicant in terms of the loss of the investment in the subject building as well as difficulty and expense of finding a suitable alternative location. In addition, the subject location is accessible to clients who walk to the site from the community. Relocation of the facility would place an additional burden on those for whom the services are provided.

25. Three residents of the immediate neighborhood appeared at the public hearing in support of the application. All three were volunteers at the center, as well as having been recipients of services offered by the center. They testified that there have been no adverse impacts on the immediate residential neighborhood created by the center. The record also contains a petition of thirty-six are residents supporting the proposed expansion of the facility.

26. The Office of Planning, by memorandum dated July 18, 1984, recommended that the application be granted with conditions relative to the location of the dumpster and securing of the parking area. The Office of Planning was of the opinion that the site's history as a social service center, previous institutional usage, and unique physical characteristics evidence exceptional conditions of the site. The Office of Planning was further of the opinion that the design of the building and proposed use will not be objectionable to neighboring properties because of noise, traffic or other objectionable conditions, consistent with the criteria of Paragraph 8207.11. The Board concurs with the opinion of the Office of Planning.

27. The Board finds that there are a combination of factors that distinguish the subject application. The subject property is exceptional in the R-4 District. The building is not a typical R-4 type rowhouse. It was built and used for many years as an animal shelter, a use not allowed in the R-4 District. It does not have the appearance of a residential building. The applicant is a non-profit organization which is of substantial direct benefit to the District of Columbia and its citizens. The focus of the applicant's activities are local in nature. The activities further relate directly to the neighborhood in which the site is located.

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

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and the evidence of record, the Board concludes that the applicant is seeking area variances, the granting of which requires a

showing of an exceptional or extraordinary condition of the property which creates a practical difficulty upon the owner. The Board concludes that the subject site is affected by an exceptional situation as a result of the zoning history of the site as set forth in Findings of Fact No. 9, 10 and 11, and the nature of the design of the building, as set forth in Finding No. 27.

The existing structures on the site create a nonconformity with regard to the required rear yard. The nonconforming use of the structure was created by prior zoning actions, therefore precluding any enlargement of the structure as set forth in Paragraph 7106.14. An addition to the existing structure of any size would require a variance from that requirement. The increase in lot occupancy which would result from the proposed expansion is not great. The proposed expansion will not change the footprint of the existing structures and court nor will it substantially alter the exterior appearance of the premises.

The Board notes that the use has existed at the subject site with no adverse impacts on the community for several years. The proposed expansion will not increase the intensity of its nonconforming status, but will permit the continued provisions of service to the community. The Board concludes that the direct benefits that result to the District of Columbia from the operation of the use, and the further benefits that would occur if this application were approved, are substantial and significant and warrant approval of the application. The Board further concludes that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan. ACCORDINGLY it is hereby ORDERED that the application be GRANTED.

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

29 OCT 1984

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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