

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 14247 of 1606 New Hampshire Ltd. Partnership, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Paragraph 4101.44 to permit SP office use in the proposed addition and a variance from the closed court width requirements (Sub-section 4305.2) for a proposed addition to an existing SP office building and the alteration of a carriage house for residential use in an SP-1 District at premises 1606 New Hampshire Avenue, N.W., (Square 134, Lot 800).

HEARING DATE: February 13, 1985  
DECISION DATE: March 6, 1985

FINDINGS OF FACT:

1. The subject site is located on the west side of New Hampshire Avenue between Corcoran and Q Streets, N.W., at premises known as 1606 New Hampshire Avenue, N.W. It is zoned SP-1.

2. The subject site is irregular in shape with forty-four feet of frontage on New Hampshire Avenue. The forty-four foot width continues for a depth of approximately seventy-eight feet. The southern lot line angles to the northwest for a lot width of 32.08 at the rear of the site adjacent to a ten foot public alley. The site contains approximately 4,316 square feet of land area.

3. The subject site is currently improved with a four-story brick office building and a two-story carriage house. The existing buildings were constructed in the late 19th Century and were restored by the architectural firm of Hornblower and Marshall in 1909.

4. The existing building and carriage house have been entirely devoted to SP office use since 1952. The most recent use of the building was offices for the National Planning Association with approximately thirty employees. The applicant proposes to renovate the existing building and to construct an addition for SP office use. The carriage house will be renovated and will be devoted to residential use and parking.

5. The existing four-story building contains c. 8,322 square feet of gross floor area. The existing carriage house and porte cochere contain 1,451 square feet of gross

floor area. The total gross floor area devoted to SP office use is currently 9,773 square feet.

6. The applicant proposes to use the existing four-story structure and addition as SP office space for approximately thirty to thirty-five employees and to convert the existing carriage house to residential use. The proposed addition to the existing four-story building will result in an additional gross floor area of 2,371 square feet. The existing carriage house and porte cochere will be devoted to residential use. There will be no increase in the existing gross floor area of 1,451 for the carriage house.

7. Because the use of the existing carriage house and porte cochere for office space is being converted to residential use, the overall net gain of office space will be approximately 1,400 square feet.

8. The subject site is located within the Dupont Circle Historic District. The proposed restoration and addition have received conceptual approval from the Historic Preservation Review Board.

9. The applicant is seeking a special exception and two area variances. The Board is authorized to grant the requested special exception relief, pursuant to Paragraph 4101.44 of the Zoning Regulations, which permits an office for an international organization, nonprofit organization, labor union, architect, dentist, doctor, engineer, lawyer or similar professional person, provided that:

- A. The use, height, bulk and design are in harmony with existing uses and structures on neighboring property;
- B. The use will not create dangerous or other objectionable traffic conditions; and
- C. The Board may require such special treatment in the way of design, screening of buildings, accessory uses, signs and other facilities as it shall deem necessary to protect the value of neighboring property.

10. The proposed addition will be approximately the same height and bulk as the two adjacent buildings and will conform with the Beaux Arts style of architecture which is predominant in the area.

11. The renovation of and an addition to the property located adjacent to the subject site at 1608 New Hampshire Avenue was developed and designed by the applicant and architect involved in the subject application. The design

of the renovation and addition on to the subject building is very similar to that at 1608 New Hampshire Avenue.

12. The immediate vicinity of the subject site is characterized by a mixture of SP-type offices, apartment houses, rowhouses, chanceries and embassies. The Embassy of Argentina is located to the immediate south of the site. To the north of the site are proposed SP offices at 1608 New Hampshire, the Washington School of Psychiatry, a two story residential building and the Order of the Eastern Star. Across New Hampshire Avenue to the east are SP-type offices, a proposed office/residential building, the Unitag house and the Nicaraguan Embassy. To the west of the site along Q and 19th Street are two four-story residential buildings, the Phi Beta Kappa headquarters, the Washington Women's Arts Center and a hair stylist. To the north along Corcoran Street is primarily residential, with the exception of the Embassy of Argentina. The 1800 block of Corcoran Street is characterized by two, three and four-story residential structures.

13. The subject site is located in close proximity to public transportation. The Dupont Circle Metro station is located approximately three blocks to the north of the site. Dupont Circle also provides access to approximately twenty-one major bus routes which serve 18th Street, Connecticut, Massachusetts and New Hampshire Avenues.

14. The Zoning Regulations require the applicant to provide one on-site parking space for the proposed residential development and one for the office development for a total of two parking spaces. The applicant proposes to provide three parking spaces on-site.

15. The applicant's traffic consultant conducted a study to determine the availability of on-street parking spaces in the immediate area of the subject site. The traffic consultant determined that there are approximately 1,184 on-site parking spaces located within a four-minute walk from the subject site of which five percent or approximately forty spaces were unoccupied at any given time. It was the traffic consultant's opinion that the available on-street parking spaces are more than adequate to serve the short term parking needs of the subject building. In addition, the consultant found five public parking garages in the area which offer monthly leases.

16. The traffic consultant estimated that approximately twenty-five percent of the thirty employees expected to be generated by the proposed development would drive to work. With an average car occupancy of 1.8, the projected number of employees would generate approximately four automobile trips. The additional auto trips would have a negligible effect on peak hour traffic in the area.

17. The proposed renovation and addition to the subject structure has been favorably reviewed by the Dupont Circle Conservancy and the Historic Preservation Review Board. The attractiveness of the site will be further enhanced by landscaping.

18. The applicant is requesting an area variance from the residential and nonresidential closed court width provisions of the Zoning Regulations. Sub-section 4305.1 requires that where a court is provided for a building or portion of a building devoted to nonresidential uses, the width of the court shall be a minimum of three inches per foot of height, provided that in no case shall the width be less than twelve feet. Sub-section 4305.2 requires that a court provided for a building or portion of a building devoted to residential uses shall have a minimum width of four inches per foot of height, provided that in no case shall the width of the court be less than fifteen feet.

19. The subject premises has two existing nonconforming closed courts. The nonresidential closed court on the north side of the property has a width of 6.4 feet. The residential closed court on the south has a width of thirteen feet. The proposed addition does not alter the size of the existing nonconforming courts or increase the nonconformity of the structure.

20. The architect testified that the existing configuration of the subject structure, which pre-dates the Zoning Regulations, creates the nonconforming court widths. Any addition to the existing structure would necessitate variance relief from the minimum court width requirements. In order to comply with the court width requirements, the applicant would have to demolish part of the existing structure.

21. Because of the historic designation of the existing structure, the applicant cannot raze the existing improvements in order to rebuild in full compliance with the zoning requirements.

22. No other zoning relief is necessary for the proposed addition. The SP-1 District permits a nonresidential lot occupancy of 100 percent and a residential lot occupancy of eighty percent. The nonresidential lot occupancy of the subject site is 64.5 percent and the residential lot occupancy is 11.5 percent, for a total lot occupancy of seventy-six percent. The minimum rear yard required is twelve feet. The applicant is providing a rear yard of twenty-four feet. The maximum of height permitted is sixty-five feet. The proposed height is approximately fifty-five feet. The maximum floor area ratio permitted is 4.0, of which no more than 2.5 may be used for nonresidential purposes. A floor area ratio of 2.47 for non-

residential purposes and a residential floor area ratio of c. 0.35 are proposed.

23. The Office of Planning (OP), by memorandum dated February 6, 1985, recommended approval of the subject application. The OP was of the opinion that the applicant has met the test for special exception relief and, further, that there are unique circumstances related to the site's physical condition, age and location which supports the finding of practical difficulty necessary for the granting of an area variance. The OP was further of the opinion that the introduction of a residential unit on the site and the preservation of the architectural integrity of the subject structure are in harmony with the intent and purpose of the SP-1 District. The Board concurs with the recommendation of the Office of Planning.

24. The D.C. Department of Public Works, (DPW), by memorandum dated February 6, 1985, offered no objection to the application. The DPW found that one parking space is required to serve the residential unit and none are required for the office use. The DPW was of the opinion that the three on-site parking spaces would be adequate. The DPW was further of the opinion that, given the existing use of the premises for offices with twenty-five to thirty employees, the fact that the addition amounts to less than a twenty-five percent increase of the gross floor area and the close proximity of mass transit and commercial parking space, there will be no adverse impact on the street system. The Board so finds.

25. Advisory Neighborhood Commission 2B, by letter dated February 5, 1985, opposed the granting of the application for the following reasons:

- A. Approval of the application would be contrary to the recommendations under the Comprehensive Plan to disallow expansion of commercial developments north of Massachusetts Avenue, N.W.
- B. The subject site is in an area that is considered as a transitional area under the Comprehensive Plan where commercial development and office space should be disallowed.
- C. The applicant has not demonstrated a hardship.
- D. Approval would result in additional traffic and parking problems on an already congested, one-way residential street.
- E. The builders' past behavior demonstrates that approval of the application will "destroy many of the values of the neighborhood, ie., a quiet

residential area, and it is inappropriate to insert this project into the neighborhood at this particular location."

26. The Dupont Circle Citizens Association, by letter dated February 13, 1985, and by a representative at the public hearing, opposed the granting of the subject application based on concerns of the neighbors in opposition. The Dupont Circle Citizens Association did not address specific issues or concerns.

27. The Midway Civic Association, by letter dated February 12, 1985, and by a representative at the public hearing, opposed the granting of the subject application as a result of the strong opposition of residents in close proximity to the site. It was the opinion of the representative of Midway Civic Association that:

- A. The proposed addition will block light and air to the residences along Corcoran Street;
- B. There will be illegal parking for the office use in the driveway and porte cochere;
- C. The use will generate additional traffic and create additional parking problems; and
- D. The area of the porte cochere should be calculated as office space, rather than residential.

The Board notes that the calculations regarding residential and nonresidential gross floor area were determined by the Zoning Administrator. Disagreement with those calculations by the opposition should be by the filing of an appeal from the Zoning Administrator's decision. No such appeal is currently before the Board.

28. Five residents testified in opposition to the application. The opposition was based on the following:

- A. Construction at 1608 New Hampshire Avenue resulted in damage to residences, trees and street lights, as well as adverse impacts on residences due to noise, pollution and blocking of the alley. Construction of the proposed addition will have the same impacts.
- B. The increased bulk of the building, will block light and air to the two-story residences along Corcoran Street.
- C. The addition will allow for an increase in the number of employees in the building, thus causing an increased demand for parking in the area and

additional traffic on Corcoran Street, including deliveries and trash collections.

- D. The applicant did not demonstrate a practical difficulty relative to the topography or configuration of the lot, nor demonstrate a need for SP office space at this location.
- E. The SP District is over developed with office uses in this area.
- F. The quality of life in the neighborhood and the value of residential properties in the area will be adversely affected.
- G. The public alley has recently been posted to ban truck traffic. Therefore, there will be no access to the rear of the site for construction vehicles.
- H. The addition of one small residential unit does not result in a substantial benefit to the neighborhood.

29. The opposition submitted an informal parking survey of the area demonstrating the abundance of illegally parked cars and the limited parking available in the area.

30. The Board is required by statute to give "great weight" to the issues and concerns raised by the Advisory Neighborhood Commission. In addressing those issues and the concerns of the groups and residents in opposition, the Board finds as follows:

- A. The reference to the Comprehensive Plan by the Advisory Neighborhood Commission is to the Land Use Element. At the time this application was heard and decided, the Land Use Element had been passed by the Council of the District of Columbia, but had not become law. Consequently, the provisions of that element were not in effect. Even if the law had become effective, the provisions of the element are not self-executing. The Comprehensive Plan Act of 1984 (Section 102) provides in part that "the District elements of the Plan are a guide intended to establish broad policies and goals while affording flexibility for future implementation and are not binding policy directives." The Land Use Element does not automatically change the Zoning Regulations. The Zoning Act as amended by the Home Rule Act requires that the Zoning Regulations "not be inconsistent with the comprehensive plan." It is the responsibility of the Zoning Commission to accomplish that task. The Board is limited to following the Zoning

Regulations as they exist, and unless and until the Zoning Commission amends the Regulations to require the Board to determine whether an application is consistent with the Comprehensive Plan, that determination is beyond the scope of the Board's consideration.

- B. The applicant is not required to demonstrate a "hardship." The relief sought is for a special exception and area variances. The standard for an area variance is "practical difficulty," not a hardship.
- C. The concerns based on construction activity at 1608 New Hampshire Avenue, are not relevant to the proposed addition at 1606 New Hampshire. Further, the applicant's architect testified that the type and amount of construction proposed will be similar to residential construction, most work will be interior to the building and exterior work will basically be brick and block construction, and will not involve continuous use of heavy construction machinery.
- D. The proposed addition will not adversely impact on the light and air of nearby residences due to the existence of buildings of similar height and bulk on both sides of the subject structure which would buffer the impact of the addition from the residences.
- E. The number of employees projected to occupy the structure does not substantially differ from the number of employees previously occupying the structure. The total net increase in office area is approximately 1,400 square feet and is within the permitted non-residential gross floor area.
- F. The applicant is providing on-site parking spaces in excess of that required by the Zoning Regulations. The Board does not dispute the findings of the opposition's parking survey. However, the Board finds the report of the Department of Public Works and the applicant's traffic expert persuasive and finds that the use will not adversely impact the street system in the area.
- G. The Board has no jurisdiction regarding the enforcement of the ban on truck traffic in the public alley.
- H. The proposed office-residential development is in keeping with the intent and purpose of the SP District and, further, will provide for the

restoration of the existing historic structures  
for permitted SP use.

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 a special exception and an area variance. With regard to the special exception, the applicant must demonstrate substantial compliance with the requirements of Paragraph 4101.44 and Sub-section 8207.2 of the Zoning Regulations. The Board concludes that the applicant has met the required burden of proof. The use, height, bulk and design of the structure will be in harmony with existing uses and structures on neighboring property, as stated in Findings of Fact Nos. 10, 11 and 12. The use of the structure for SP offices will not create any dangerous or objectionable traffic conditions. The applicant is providing three on-site parking spaces and the site is well served by bus and subway as stated in Finding of Fact No. 13.

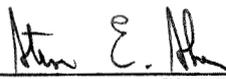
With regard to the area variance, the granting of which requires the showing of an exceptional or extraordinary condition of the property which creates a practical difficulty for the owner, the Board concludes that the subject site is affected by several unusual and exceptional circumstances. The Board notes that the site is developed with an existing nonconforming structure. The existing configuration of the historic structure improving the site itself creates two nonconforming courts. The Board notes that any addition to the existing building would necessitate variance relief from the minimum court width requirements enacted subsequent to the erection of the existing structure. The property is a historic structure subject to design review pursuant to D.C. Law 2-144. The Board concludes that there is a practical difficulty in building the proposed addition because there is an existing historic structure on an unusually shaped lot. The Board further concludes that strict application of the Zoning Regulations would impose a practical difficulty upon the applicant and that the elements necessary to grant the requested area variance are inherent in this property.

The Board further concludes that the requested relief can be granted without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Maps. The Board also concludes that it has addressed the issues and concerns of the ANC and that it has thus accorded to the ANC the "great weight" to which it is entitled. Accordingly, it is ORDERED that the application is GRANTED.

VOTE: 4-0 (John J. Parsons, William F. McIntosh, Douglas J. Patton, and Carrie L. Thornhill to grant; Charles R. Norris not voting, not having heard the case.)

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

ATTESTED BY:

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

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

5 JUL 1985

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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