

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14299, of William and Rhonda Beverly, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the use provisions to use the first and second floors of the subject premises as a beauty salon in an R-4 District at premises 1918 - 11th Street, N.W., (Square 305, Lot 50).

HEARING DATE: June 12, 1985
DECISION DATE: July 3, 1985

FINDINGS OF FACT:

1. The subject site is located on the west side of 11th Street between U and T Streets, N.W. The site is known as premises 1918 11th Street, N.W. It is in an R-4 District.

2. The subject lot is rectangular in shape. It has a frontage of 20.90 feet along 11th Street to the east and along a public alley to the rear. The lot has a depth of ninety-three feet.

3. The subject site is improved with a two story brick structure with a basement.

4. The area immediately surrounding the subject site is zoned R-4. There is a C-2-A District less than 200 feet north of the site.

5. While there are a number of business in the 1900 block of 11th Street, including a bank, grocery store and barber shop, the immediate neighborhood surrounding the subject site is devoted primarily to residential uses.

6. The applicants propose to operate a beauty salon on the first and second floors of the subject structure.

7. The proposed operation requires a use variance from Sub-section 3104.3 of the Zoning Regulations. A beauty parlor is first permitted as a matter-of-right in the C-1 District.

8. Paragraph 8207.11 of the Zoning Regulations provides that:

Where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of

the original adoption of the regulations or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under this Act would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property, a variance from such strict application so as to relieve such difficulties or hardship, provided such relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the zoning regulations and map.

9. The proposed salon would be operated by the applicants from 10:00 A.M. through 8:00 P.M., Tuesday through Friday, and from 7:00 A.M. through 3:00 P.M. on Saturday.

10. The applicants own and operate a beauty salon at the intersection of 12th Street and Maryland Avenue, N.E., and intend to continue its operation.

11. The proposed business would be a full service beauty salon. Services offered would include perms, curls, pressing and manicures.

12. All services provide by the proposed business would be on an appointment basis only.

13. There would be four beauty operators stationed on each floor of the proposed salon. Each operator would be stationed at a booth. There would be three staff persons in addition to the operators. All operators would not necessarily be working at the site at one time.

14. The applicants propose to provide parking for beauty salon employees at the rear of the subject site and in the rear yards of premises 1908 and 1910 11th Street. These lots are accessible from the rear by the same 14.16 foot wide public alley which is contiguous to the subject site. The premises at 1908 and 1910 are owned by the applicants' father.

15. Customers arriving at the proposed business by automobile would park on the public streets.

16. The current certificate of occupancy, No. B47043, dated February 4, 1965, permits the subject structure to be used as a flat, the basement being used as one unit and the first and second floors as one unit.

17. The subject site has been vacant since May, 1985, when the previous tenants were evicted for failing to pay rent.

18. The subject site has previously been used as a rooming house by the applicants.

19. Because of problems associated with collecting rents, the applicants do not want to continue operating the subject structure as residential rental units.

20. The applicants purchased the property in October of 1984, as an investment and to relieve an aging parent of the burden of collecting payment from tenants who resisted paying rent.

21. Since it has been vacant, the applicants have not attempted to use the subject property for a use permitted as a matter-of-right in the R-4 District. They have not advertised the units as being available for rental.

22. As an alternative to their using the subject site for residential purposes, the applicants would sell the property and select another location from which to operate their proposed beauty salon.

23. There are three beauty parlors on 11th Street within one block of the subject site and at least two beauty parlors on U Street within two blocks of the subject site.

24. The applicants did not contact any neighbors of the subject site concerning the proposed beauty parlor.

25. Advisory Neighborhood Commission 1B, by report dated June 5, 1985, and by testimony at the hearing, recommended denial of the subject application. The ANC reported that the shape and size of the subject property is not unique when compared to other lots in the immediate area. No hardship would result to the owners if the variance were not granted. The site does not preclude the owners from continuing to use the property for residential units. The surrounding units are used as residences. The ANC further argued that the fact that the applicants could obtain a greater income from the site when used as a beauty salon is no grounds to support a use variance. The ANC was further concerned that no parking was being provided for the clients. The Board concurs with the concerns and recommendation of the ANC.

26. As a preliminary matter, the ANC had requested a continuance of the application until a time after the ANC had the opportunity to discuss its concerns with the applicants. The Board denied the request for the continuance. The Board found that the report submitted by the ANC had sufficiently evaluated the grounds for the denial of a use variance.

27. An owner of property directly across the street from the subject site opposed the application by a letter, dated June 4, 1985, and at the hearing. The property owner stated that the neighborhood is historically important and that the houses in that area are of superior construction. The residential character of the neighborhood should be preserved. A commercial establishment would lower the property value of the residential units and would discourage potential buyers of residential property.

28. The property owner in opposition testified that she has had considerable trouble with renters at her property on 11th Street. Various tenants have severely damaged her property and she has had large expenses for repairing the damage and legal action taken to remove the tenants. Despite these difficulties, she has preserved her property as a residential use. The Board concurs with the opposition that the subject property could be returned to a permitted R-4 use. The matter of the tenants is a managerial issue, not a zoning issue.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the applicants are seeking a use variance, the granting of which requires a showing through substantial evidence of an undue hardship upon the owner arising out of some unique or exceptional condition in the property so that the property cannot reasonably be used for the purpose for which it is zoned. The Board must further find that the relief requested can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Maps.

The Board concludes that the applicants have not met this burden of proof in showing an undue hardship inherent in the property. There is nothing in the size, shape, or topography of the subject property that would preclude it from being used for an R-4 purpose. The Board concludes that the applicants have not exhausted reasonable efforts to find a permitted use from the list of uses permitted for the subject property.

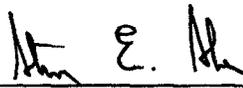
The Board further concludes that the applicants' problems collecting rent from tenants do not constitute a hardship in the sense defined by the Zoning Regulations. Such hardship must be inherent in the physical characteristics of the site, so that it cannot be used for a permitted purpose. Furthermore, no evidence has been presented demonstrating that the property could not be sold to a buyer who would use the site for a permitted use.

The Board also concludes that granting this use variance to operate a salon in an R-4 District cannot be done without substantial detriment to the public good and substantial impairment to the intent and purpose of the zone plan. The Board concludes that it has accorded to the Advisory Neighborhood Commission the "great weight" to which it is entitled. Accordingly, it is hereby ORDERED that the application is DENIED.

VOTE: 3-0 (Charles R. Norris, William F. McIntosh, Patricia N. Mathews to deny; Carrie L. Thornhill and Douglas J. Patton 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: _____

16 AUG 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."

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