

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14323, of Smith and Smith Co., pursuant to Sub-section 8207.11 of the Zoning Regulations, for a variance from the use provisions (Sub-section 3104.3) to use the first and second floors and basement of the subject premises as a transportation center (transportation of elderly and handicapped persons) in an R-4 District at premises 2800 Sherman Avenue, N.W., (Square 2857, Lot 800).

HEARING DATE: December 18, 1985
DECISION DATE: January 8, 1986

FINDINGS OF FACT:

1. The site is located at the northwestern corner of the intersection of Sherman Avenue and Girard Street and is known as 2800 Sherman Avenue, N.W. It is in a R-4 District.

2. The site is flat and rectangular in shape except for a dog leg at the northwest corner of the site.

3. The site has a 75 foot frontage on Sherman Avenue and a depth of 155 feet on Girard Street. The rear lot line measures 140 feet. It includes a dog leg extending north and measuring 75 feet by thirty-five feet. On the dog leg section there is a garage. In addition, the dog leg section is part of the parking lot that borders the site on the north and west.

4. The parking lot aspect of the site is enclosed by a six foot chain link fence. The parking lot has a capacity for twelve vans.

5. That part of the site that fronts on Sherman Avenue is improved with a two story brick structure with basement. Each floor contains approximately 8900 square feet. The first floor contains three rooms. The second floor contains three rooms and a bath. There is no kitchen.

6. To the north, east, south and west there are residential dwellings in the R-4 District. There are also scatterings of grocery stores, a liquor store, gas station and a doctor's office in the immediate area.

7. Certificate of Occupancy No. B81204, dated March 6, 1972, was issued to the Union Taxi Owner's Cooperative Association, Inc. for use of the first floor as a gas station.

The Zoning Administrator's office advised that there was an existing use for the basement for storage. There was no additional Certificate of Occupancy for the garage.

8. The applicant purchased the property in October of 1983. Thereafter he rented the site to the present lessee who began operation of a transportation center for the elderly and handicapped. The applicant proposes to continue to rent all floors and basement of the site for the same purpose.

9. The transportation center is available for all residents of the District of Columbia and parts of Maryland.

10. The applicant was of the opinion that because of the history of the site, the proposed use required no zoning approval.

11. The applicant never attempted to use the site for residential purposes or other uses permitted in a R-4 District. At the public hearing, the applicant admitted that the site could be developed residentially.

12. The Advisory Neighborhood Commission (ANC) 1B filed an untimely report. The Board did not waive its rules to allow the report to be placed in the file. At the hearing, a representative of the ANC read their report which was in support of the application. No grounds for the support were recited.

13. The Board is required by statute to give "great weight" to the issues and concerns of the ANC only when they are reduced to writing and timely filed. This is not the situation in this application.

14. There was no opposition to this application.

CONCLUSIONS OF LAW:

Based on the record, the Board concludes that the applicant is seeking a use variance pursuant to Sub-section 8207.11 of the Zoning Regulations to use the first and second floors and basement of the premises as a transportation center for the elderly and handicapped.

The Board can grant use variances based upon the following three criteria set forth in Section 8207.11 of the Zoning Regulations:

1. Unique physical aspect or "other extraordinary or exceptional situation or condition of a specific piece of property;
2. Undue hardship; and

3. No substantial detriment to the public good and substantial impairment to the intent, purpose and integrity of the zone plan.

The Board concludes that the applicant has not met its burden of proof. There is nothing inherent in the property which makes it unique or extraordinary, such that it can not reasonably be used for a purpose for which it was zoned. The owner has shown no undue hardship placed upon him if the property is put to a permitted use. To allow a use variance would impair the zone plan. Accordingly, it is ORDERED that the application is DENIED.

VOTE: 3-0 (Charles R. Norris, William F. McIntosh, Lindsley Williams to deny; Carrie L. Thornhill not voting, not having heard the case; Douglas J. Patton not present, not voting).

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

ATTESTED BY:


EDWARD L. CURRY
Acting Executive Director

FINAL DATE OF ORDER: SEP 12 1986

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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