

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14410, of Bahman Teimourian, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 4101.44 to use the first, second and third floors of a proposed addition for SP office uses in a SP-1 District at premises 1759 R Street, N.W., (Square 153, Lot 139).

HEARING DATE: April 9, 1986
DECISION DATE: May 7, 1986

FINDINGS OF FACT:

1. The property is located on the northwest corner of the intersection of New Hampshire Avenue, N.W. and R Street, N.W. between 17th and 18th Streets, N.W. and is known as premises 1759 R Street, N.W. It is zoned SP-1.
2. The property is improved with a four-story plus basement brick mansion known as the Mrs. Thomas Nelson Page House, an individually designated national and local historic landmark built in 1891. The property is located within the Dupont Circle Historic District.
3. The area of the property is approximately 9,017 square feet with frontage on R Street, N.W. There is a public alley system behind the property to the north and west.
4. The SP-1 zone district is a medium density district that allows office uses for limited purposes, such as chanceries, international agencies, non-profit organizations, architects, and other professional uses, upon approval of a special exception by the Board of Zoning Adjustment. Residential uses are permitted as a matter-of-right in the SP zones. The premises was occupied for office purposes by the military attache of the French Embassy from approximately 1940 to 1984. The applicant proposes to provide a mix use of office and residential uses at the subject premises.
5. In early 1985, the applicant began renovation of the main structure. A four-story rear addition was constructed pursuant to Building Permit No. B309376 for residential use. The addition contains three levels above the ground-level parking, with an area of 2,867 square feet, rising approximately sixty feet. The total area of the

original structure and rear addition is approximately 25,085 square feet.

6. The original structure can be utilized entirely for SP office use as a matter-of-right pursuant to an existing certificate of occupancy. The smaller, recently completed rear portion of the subject property, containing approximately 2,900 square feet, can be used for residential purposes as a matter-of-right. The renovation of the original structure and the construction of the rear addition are being completed in accordance with plans submitted to and approved by the Historic Preservation Review Board.

7. The applicant is seeking special exception relief pursuant to Paragraph 4101.44 to use the recently constructed addition for SP office use. The applicant proposes to continue to use the ground floor and first three stories of the original building for SP office use. The applicant proposes to use the fourth story of the existing building for residential use. The proposed internal shift of offices and residential uses will not affect the exterior configuration of the property. No variance relief is required.

8. The proposed internal shift of office and residential uses is intended to provide for more efficient separation between office and residential uses in order to improve internal circulation and to effectively and economically assure the safety and privacy of residents and to better secure office areas from vandalism.

9. The addition contains approximately 2,867 square feet. The fourth floor of the original building contains approximately 3,350 square feet. The proposed shift of internal office and residential space would therefore result in an increase in the square footage devoted to residential use.

10. At the time of the public hearing, the rear addition had been constructed, however, the interior of the addition was only roughly finished to permit the applicant flexibility in configuring the space for either residential or office use pending the outcome of the applicant's request for special exception relief.

11. The applicant is providing seventeen parking spaces on-site. Twelve on-site parking spaces are required. The applicant proposes to provide a curb cut on New Hampshire Avenue to provide ingress to the parking area. Egress will be through the public alley at the rear of the premises.

12. The Office of Planning (OP) by memorandum to the Board, dated April 2, 1986, and by testimony presented at the hearing on April 9, 1986, recommended approval of the subject application. The OP report commended the superior

renovation work undertaken by the applicant. The OP memorandum stated that the special exception application met the criteria for SP office uses, including the following: (a) The use, height, bulk and design are in harmony with existing uses and structures on neighboring property; and (b) The use will not create dangerous or other objectionable traffic conditions.

13. The OP report explained that the proposed uses are consistent with the mix of uses in the immediate neighborhood and that the proposed nonresidential bulk of the structure is below the permitted 2.5 FAR for nonresidential uses in the SP-1 zone. The OP report noted that the internal reorganization of space represents a modest gain in residential floor space.

14. The OP representative testified that the circulation system proposed by the applicant is a vast improvement over that utilized by the previous occupant of the structure. The OP report, in recommending approval, states that the historic quality of the structure, which is a registered national and local landmark, is of critical importance. In the report and in testimony before the Board, the OP representative explained how the applicant undertook a thorough, painstaking restoration of the facade and the structure's interior to create a mix of uses on a site that had formerly been used only for offices.

15. The Advisory Neighborhood Commission (ANC) 2B, did not file a timely report on the application and, therefore, is not entitled to the great weight pursuant to the D.C. Code.

16. An ANC representative, a Residential Action Coalition (RAC) representative, and many neighbors opposed the application based on the following factors:

- a. The opposition was of the opinion that the shift of residential use to the top floor of the original structure would leave the addition, which is the portion of the building closest to neighboring residential properties, vacant on evenings and weekends, eliminating the twenty-four hour presence residential use would provide and decreasing the deterrent to potential crime in the alley which is provided by the proximity of residents to the alley.
- b. The opposition was of the opinion that the parking plan proposed by the applicant would greatly increase traffic in the alley and would adversely impact the residents adjacent to the alley due to increased noise, number

of vehicles using the alley and potential danger to neighborhood children using the alley.

- c. The opposition protested the manner by which the applicant sought to turn the addition into office use. The group cites the construction of the addition according to plans more suited to commercial use as evidence that the applicants had never intended to use the addition for residential purpose.
- d. The opposition protested the lack of concern and responsiveness to the surrounding neighbors by the applicants. The group cites letters and petitions which went unanswered by the applicants.
- e. The opposition protested the parking garage planned for the ground level of the addition. The group was most concerned with safety and security problems that would be intensified by the unoccupied ground level garage and alcoves on evenings and weekends.

17. Several letters in favor of the application were received.

CONCLUSIONS OF LAW AND OPINION:

Based on the evidence in the record, the Board concludes that the applicants are seeking a special exception to internally shift permitted residential and SP office uses within a building and its new addition. The applicant seeks to use the rear addition on the property for SP office uses. The applicant plans to use the top floor of the original structure for residences. In order to be granted such special exception relief, the applicant must demonstrate substantial compliance with the requirements of Paragraph 4101.44 of the Zoning Regulations and that the relief can be granted in harmony with the intent and purpose of the Zoning Regulations and will not tend to affect adversely the use of neighboring property.

Paragraph 4101.44 of the Zoning Regulations authorizes the Board to approve a non-conforming use of the property as an office for an international organization, non-profit organization, labor union, architect, dentist, doctor, engineer, lawyer, or other similar professional person, provided that:

4101.441 The use, height, bulk, and design are in harmony with existing uses and structures on neighboring property; and

4101.442 The use will not create dangerous or other objectionable traffic conditions.

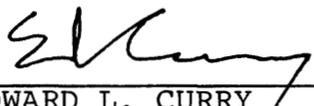
The Board concludes that the applicant has failed to meet the required burden of proof. While the renovation of the original structure is admirable and beneficial, the Board must address the impacts of the use of the rear addition on neighboring property owners. The Board concludes that the general use, height, bulk and design of the subject premises are in harmony with existing uses and structures in the area. However, the Board concludes that the location of the uses within the original structure and addition as proposed would adversely impact adjacent residents. The Board notes that the applicant may provide mixed residential and office use of the subject premises as a matter-of-right. The location of residential use in the rear addition as a matter-of-right locates the residential component of the project in close proximity to existing residences and eliminates some of the concerns expressed by the opposition.

The Board further concludes that the application cannot be granted as in harmony with the general purpose and intent of the Zoning Regulations and map and will tend to adversely affect the use of neighboring property. Accordingly, it is hereby ORDERED that the application is DENIED.

VOTE: 3-1 (William F. McIntosh, Charles R. Norris, and Paula L. Jewell to deny; Carrie L. Thornhill opposed to the motion).

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

ATTESTED BY:


EDWARD L. CURRY
Acting Executive Director

FINAL DATE OF ORDER: SEP 26 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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