

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 14632 of Dong Kyu Kim, pursuant to Sections 3107.2 and 3108.1 of the Zoning Regulations, for a variance from the prohibition against retail use (Section 501.1), and a special exception to permit offices (Section 508.1) in the SP-2 District at premises 1129-1133 - 11th Street, N.W., (Square 341, Lot 821).

HEARING DATE: July 15, 1987  
DECISION DATE: September 2, 1987

1. The site, known as premises 1129-1133 11th Street, N.W., is located at the southeast corner of the intersection of M and 11th Streets. The site is located in an SP-2 District.

2. The total area of the property is 4,362 square feet. The site has approximately 53 feet of frontage along 11th Street and 76 feet of frontage along M Street. The property is improved by a three-story brick structure which is rectangular in shape. The square footage of the entire building is 7,495 feet. The building has three entrances on 11th Street, two entrances into the rear yard and one entrance on M Street. The three entrances on 11th Street enters into separate first floor units. Each unit is divided into separate rooms, and each unit contains its own bathroom. Three staircases connect the first floor with the second floor. The second floor contains eight rooms. One staircase leads to the third floor which is divided into three separate rooms. The second floor also contains two bathrooms.

3. The structure is currently vacant. Previously, the second and third floors had been used as a rooming house. One unit of the first floor was used for a dry cleaner and shoe repair, one unit was used for a church, and one unit was used as a rooming unit as a part of the rooming house. The structure had fallen into a general state of disrepair before the applicant purchased it in December, 1986. Due to the vacancy and lack of upkeep, the property has been used by drug users and prostitutes. The applicant has undertaken some repairs in an attempt to protect the property from break-ins, prevent long-term or extensive damage to the building and to reduce illegal and illicit activities on the property. He also painted the exterior of the building to make it less visually offensive.

4. The SP-2 District extends to the east, west and south of the site. The property north of the site across M

Street is zoned C-2-A District. One block to the northeast of this commercial strip is an R-5-C District. The property further to the east of the site at 9th and M Streets is within the C-2-A District. The land uses in the area surrounding the site are a blend of apartment buildings of five to ten stories in height, two and three story residential rowhouses and, commercial and retail buildings of varying sizes and intensities. To the south of the site along the east side of 11th Street, there is a vacant lot, a six story apartment building, a three story detached house and the former Soldiers, Sailors, Marines and Airmen's Club which is undergoing renovation and expansion. On the west side of 11th Street is an electrical supply company and three large apartment buildings. Along 11th Street north of M Street are a small carryout restaurant, parking lot, a liquor store and low-rise residences. Immediately to the east of the site on the south side of M Street are three and four story row houses including the Rachel's Woman's Center. On the north side of M, between 10th and 11th Streets are a carryout restaurant, a vacant lot and a large vacant apartment building. A small office is located approximately 120 feet to the south of the property at 1123 11th Street. A large office building is located at the corner of 11th and L Streets.

5. Eleventh Street is a major, four-lane thoroughfare and M Street is a two-way, two-lane secondary street. Massachusetts Avenue, a major five-lane arterial, bisects 11th Street approximately 500 feet south of the subject property. A metrobus stop for the northbound Route 60 busline is directly in front of the property on 11th Street. Another Metrobus stop, located across 11th Street from the site is the stop for southbound Route 60 buses. The Metro Center station of Metrorail, with red, blue and orange line service, is located 5 blocks from the site at 11th and G Streets, N.W. The Shaw station of the Metrorail Green Line is scheduled to open at 7th and N Streets, N.W. in 1990. Ample curbside parking is available as well as several nearby surface parking lots.

6. The applicant is seeking a variance from the Zoning Regulations (Sub-sections 3107.2, 501.1) to permit retail use of the first floor of the structure. The applicant proposes to renovate 2,398 square feet of the first floor to accommodate up to three small neighborhood oriented retail uses.

7. The applicant proposes retail uses on the first floor level because such uses are well suited to the structure and design of the building. Rather than being restricted to one specific use, the applicant seeks approval for the following alternative uses: dry cleaners, restaurant, deli or hardware/paint store. The applicant desires this flexibility because he may be unsuccessful in signing a particular tenant or a particular use may be unsuccessful at

the location. Leases with particular tenants have not yet been executed in order to enable the applicant to solicit community input regarding the type of retail uses that may be desired.

8. Several parties have expressed interest in renting space on the first floor. The vast majority of inquiring parties have specified convenience store/grocery or deli as the probable use. Either the convenience store/deli or the restaurant would occupy the end unit at the corner of 11th and M Streets. The dry cleaner would then occupy the middle unit which formerly housed the church. The alternative would be a hardware store which would occupy both the end and the middle units.

9. The portion of the property at issue is uniquely retail-like in appearance and structure. The structure was originally built (Circa 1921) for retail uses to occupy two of the first floor units. Prior to the city-wide comprehensive rezoning in 1958, the property was zoned 1st Commercial. The 1st Commercial District was designed for small and low density commercial and neighborhood retail uses. The first floor space is still configured into three separate units consisting of large front rooms with one or two smaller back rooms. These were previously occupied by a dry-cleaner/shoe shop, a church (which was formerly a grocery) and the ground level of a rooming house. The dry cleaner/shoe repair shop formerly occupied the end unit at the corner of 11th and M Streets. Former certificates of occupancy for this unit on file at the Department of Consumer and Regulatory Affairs reflect that the dry cleaning use legitimately existed prior to the rezoning of the property in 1958. After the 1958 SP Zoning of the property, the dry cleaning use became a validly existing non-conforming use in the corner unit. A dry cleaning retail use is thus already authorized for the corner unit.

10. Two of the first floor units have frontage on 11th Street consisting of 17'6" each and the remaining corner unit has frontages of 18'0" and 48'0" on 11th and M Streets, respectively. The corner and adjacent uses have facades primarily composed of large plate glass windows. All three uses have entrances directly accessible from the sidewalk.

11. The retail-like structure of the first floor, with its plate glass windows and easy access to the street, coupled with its location on a busy arterial and in a neighborhood adjacent to commercial areas raises significant privacy and safety concerns which make locating a residential school or child development center use at the property unreasonable.

12. Uses permitted as a matter-of-right in the SP-2 District are highly unlikely to thrive in the lower portion of the structure.

13. The proposed services are unavailable in the immediate neighborhood. They are designed to serve, and be supported by, the immediate neighborhood. It is not anticipated that they will generate dangerous or objectionable traffic or parking conditions.

14. The demand for these retail service uses in this neighborhood will assure their economic viability and, consequently, provide for stable, long-term tenants. The more neighborhood-oriented nature of the proposed uses will act as an effective buffer against the immediately adjacent medium to high density commercial strip along 11th Street. The retail use of the property will require minimum renovation and additional improvements.

15. A special exception is requested pursuant to Sub-section 3108.1 and 508.1 of the Zoning Regulations to permit office uses at the site. The applicant is an architect and intends to locate his office on the second floor of the building. A labor union and psychiatrist have expressed interest in obtaining office space in the building.

16. The proposed offices will not generate a large number of clients.

17. Two hour metered parking is available on 11th Street and curbside parking is available on M Street except between the hours of 7:00 A.M. and 9:30 A.M. and 4:00 P.M. and 6:30 P.M. Several public parking lots are located nearby, including one approximately 100 feet to the south of the property. Metrobus stops, service north and southbound route 60 buses, are located directly in front of and across 11th Street from the building. Several bus lines run along Massachusetts Avenue one block to the south of the property. A Metrorail station is located a few blocks to the south of 11th and G Streets. The property is well serviced by public transportation and will facilitate easy arrival and departure by office workers and clients.

18. By letter dated July 7, 1987 Advisory Neighborhood Commission (ANC) 2C recommended approval of the application provided that the permitted retail uses exclude liquor stores, fast food restaurants and convenience stores. The ANC reported that there was strong support for suitable commercial establishments that would benefit and be patronized by residents. The ANC further reported that it hoped that much of the traffic generated will be local foot traffic. The Board concurs with the reasoning and recommendation of the ANC.

19. A letter in support of the application was submitted to the record by the owner of a neighboring apartment building. Grounds for support were that the area needed more retail establishments to serve the needs of residents of the area.

20. A resident of the neighborhood testified in opposition to the application on the grounds that:

a) the structure should be converted to residential use; and

b) a liquor store or food store should not be located at the site. The neighbor further stated that some type of neighborhood commercial use in the site... could benefit the community". The Board finds that for reasons discussed below the structure could not practically be converted to residential uses and that the site is located in an SP-2 District which permits office uses as a special exception. The Board also finds that as conditioned below a liquor store will not be permitted to operate at the site.

CONSLUSIONS OF LAW AND OPINION:

Based on the Findings of Fact and the evidence of record, the Board concludes that the applicant is seeking a use variance, the granting of which requires a showing through substantial evidence of a hardship upon the owner arising out 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 further concludes that the applicant is seeking a special exception, the granting of which requires substantial evidence that the applicant has complied with the requirements of Sub-section 3108.1 and Sub-section 508.1 of the Zoning Regulations.

The Board concludes that the applicant has met the burden of proof. The building was originally constructed for retail uses to occupy two of the first floor units. The first floor space is still configured of three separate units with large front rooms and small back rooms. The facade contains large plate glass and has direct access to the sidewalk. Due to physical characteristics of the site, use of the structure for a matter-of-right use would result in a practical hardship upon the owner as the structure would have to be significantly demolished and renovated to permit such a use.

The Board notes that the retail uses the Applicant proposes are similar in kind to the accessory uses

permitted in an SP zone: dry cleaner, barber shop, drug store, etc. (11 D.C.M.R. § 502.1). These accessory uses are only allowed if they are not visible or accessible directly from the street (11 D.C.M.R. §§502.2-502.4). The physical configuration of the applicant's property bars compliance with these off-street limitations.

The proposed uses are intended to be small scale businesses serving the neighborhood.

The Board concludes that the variance relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan.

The Board further concludes that the applicant has met the burden of proof for the special exception. The building's design, including height and bulk, is in character with the surrounding buildings which consist of a large apartment, a new hotel, two and three story buildings and small surface parking lots and other similar structures. The structure is compatible with many surrounding row houses and apartment buildings which were built around the same time or after the subject building.

The proposed office uses will have no adverse impact on the traffic flow since the size of the professional offices will not generate a large number of clients. A small office will require less parking space than a residential building. Ample parking is available in the area.

Furthermore, small offices at the site will compliment the existing land use pattern, enhancing the transition between the commercial uses along 11th Street to the north and south of the subject property and the surrounding residential uses.

The Board further concludes that the special exception can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map and it will not affect adversely the use of neighboring property.

The Board concludes that it has accorded to Advisory Neighborhood Commission the "great weight" to which it is entitled. Accordingly, it is ORDERED that the application is GRANTED subject to the CONDITION that the premises shall not contain a fast food restaurant or liquor store.

5-0 (Charles R. Norris, Maybelle T. Benette, Paula L. Jewell, William F. McIntosh and Carrie L. Thornhill to grant)

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

ATTESTED BY:



EDWARD L. CURRY  
Executive Director

DEC 22 1990

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

UNDER 11 DCMR 3103.1, "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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