

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application 14670 of Ali Mortazavi, pursuant to 11 DCMR 3107.2, for a variance from the use provisions (Sub-section 350.4) to use the premises for wholesale and retail sales of variety goods, consumer electronics, gift shop, and tobacco goods in an R-5-D District at premises 1006 and 1008 - 6th Street, N.W., (Square 451, Lots 23 and 24).

HEARING DATE: September 23, 1987  
DECISION DATE: October 7, 1987

FINDINGS OF FACT

1. As a preliminary matter at the public hearing the applicant testified that the property had been properly posted although the affidavit of posting was filed one day prior to the public hearing instead of five days as required by the Rules of Practice and Procedure for the Board of Zoning Adjustment.

2. The site, known as premises 1006 and 1008 6th Street, N.W., is located on the west side of 6th Street between K Street and New York Avenue, N.W. The site is located in an R-5-D District.

3. The site comprises two lots, 23 and 24, which are each rectangular with a combined frontage of 40 feet along 6th Street and a depth of 100 feet. A ten foot wide public alley is located to the rear of the site. The site is improved with two adjoining brick, two-story plus basement structures constructed circa 1939.

4. Premises 1006 6th Street was previously used as a tobacco warehouse with an original certificate of Occupancy (C of O) from 1939. The most recent of also for a tobacco warehouse, was No 65033. The property was vacant from 1982 through 1984 resulting in the loss of its Certificate of Occupancy for a nonconforming use.

5. Certificate of Occupancy, No 142916, dated August 5, 1985 granted permission for premises 1008 6th Street to be used as an office - wholesale storage.

6. A C-2-C District is located across 6th Street to the east of the site. Other uses in square 451 include a restaurant, barber shop, offices, a florist and other commercial and light industrial uses. The R-5-D extends to the north of the site encompassing square 450. This square

is developed with various commercial uses including a Lumber Co, an automotive parts store, a parking lot, restaurants, offices, stores, beauty and barber shops and other similar commercial uses. There are no residences located in Square 450.

7. New York Avenue is classified as a principal arterial street which provides continuity with the regional roadway network. Traffic movement is the primary service function of a principal arterial, which carries the longest vehicular trips, has a minimum width of forty feet, serves as a major bus commercial vehicle route, and has an average daily traffic count in excess of 20,000 vehicles per day. To the west of the square, the 7th Street right-of-way is under construction for the future Metro subway route.

8. The square in which the site is located was zoned C-3-B at the time of the adoption of the 1958 Zoning Regulations. The C-3-B District permitted medium density development including office, retail housing and mixed uses.

9. On December 8, 1972, the Zoning Commission changed the zoning of the square to R-5-D. Subsequently, the Commission adopted the HR overly zone. The intent of the zoning amendments was to encourage high density residential and hotel development in accordance with the Downtown Urban Renewal Plan in proximity to the future Metro station at 7th and M Streets, N.W. and the Convention Center.

10. Many of the uses in existence at the time of the 1972 rezoning have remained in this square and continue to operate.

11. Pursuant to 11 DCMR 3107.2 the applicant is seeking a use variance to use the premises for wholesale and retail sales of variety goods, consumer electronics, gift shop, and tobacco goods. All storage at the site will be storage incidental to the retail businesses.

12. Deliveries will be made to the site approximately one time each day.

13. By letter dated September 9, 1987 Advisory Neighborhood Commission 2C reported that it voted to support the application on condition that the applicant does not use said premises for warehousing goods for his other stores. Rather the premises should be used for wholesale/retail sales and maintaining inventory for these sales only. The Board concurs.

14. An owner of property in the immediate neighborhood of the site testified in favor of the application stating that the proposed business would be an asset to the area.

15. A letter was submitted to the record in opposition to the application on the grounds that the applicant will establish a liquor store on the site. The Board, finds that the grant of the application will not establish a liquor store at the site.

CONCLUSIONS 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 of undue hardship upon the owner of the subject premises arising out of some unique or exceptional condition in the property so that the property cannot reasonably be used for the purposes 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 Map.

The Board concludes that the applicant has provided sufficient proof to establish an undue hardship inherent in the property. The property is affected by an extraordinary situation based on the existing physical improvements, its location in proximity to existing commercial and light manufacturing uses, its construction and, until recently, its continued use for commercial purposes. The Board further notes the unique zoning history of the site.

The Board concludes that the applicant has met the burden of proof necessary for the granting of the use variance. The Board further concludes that the requested 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 it has accorded to the Advisory Neighborhood Commission the "great weight to which it is entitled". Accordingly, it is ordered that the application is GRANTED.

Vote: 3-0 (Paula J. Jewell, William F. McIntosh, Charles R. Norris to grant; Carrie L. Thornhill not voting, not having heard the case.

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

ATTESTED BY:

  
EDWARD J. CURRY  
Executive Director

FINAL DATE OF ORDER: DEC 22 1987

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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