

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 14892 of Sonny Tabrizian, pursuant to 11 DCMR 3107.2, for a variance from the use provisions (Sub-section 350.4) to establish an office on the second and third floors in an HR/R-5-D District at premises 1015½ - 7th Street, N.W., (Square 450, Lot 20).

HEARING DATE: November 9, 1988

DECISION DATE: December 7, 1988

FINDINGS OF FACT:

1. The property is located on the east side of 7th Street between New York Avenue to the south and L Street to the north and is known as premises 1015½ 7th Street, N.W. It is zoned HR/R-5-D.

2. The site is rectangular in shape and contains approximately 1,886 square feet of lot area. The site has a frontage of twenty-one feet along 7th Street and abuts the northernmost portion of a ten foot wide dead-end alley to the rear.

3. The property is improved with a three-story brick row structure which was built in approximately 1888 and is on the National Register of Historic Places. The building has a history of commercial use on the first floor. The most recent use of the second and third floors was for a rooming house. The premises have been vacant for several years and are in a deteriorated condition.

4. By Order No. 14891, dated December 1, 1988, the Board approved a variance to permit the use of the first floor and basement of the subject structure for a sandwich shop and restaurant seating 145 persons. There is a separate entrance from 7th Street to the second and third floors.

5. The subject block is characterized by three-story row structures which house commercial uses such as a liquor store, real estate office, furniture store, and hardware store. The remainder of Square 450 is developed with various commercial uses including restaurants, a parking lot, a barber shop, retail sales of auto parts, a Midas Muffler franchise, and a vacant warehouse. To the west of the site across 7th Street is a large, vacant parcel proposed to be developed with the Mount Vernon Campus of the University of the District of Columbia.

6. Seventh Street is a heavily travelled street which carries two-way traffic. A proposed Metrorail stop on the Green Line is under construction across the street from the subject site.

7. The property is immediately abutted by a real estate office to the north and a furniture store to the south. The abutting uses occupy all floors of their respective buildings. There are no residential uses in the immediate vicinity of the site.

8. The applicant proposes to renovate the entire structure and establish professional office use of the second and third floors.

9. The square in which the subject premises 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. On December 8, 1972, the Zoning Commission changed the zoning of the subject square to R-5-D. Subsequently, the Commission adopted the HR overlay 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. Many of the uses in existence at the time of the 1972 rezoning have remained in this square and continue to operate.

10. The applicant argued that an exceptional situation does exist based on the historic and existing use of the properties in the subject block, the historical aspects of the subject structure, and the zoning history of the area.

11. In addition, the applicant contends that the reversion of the subject premises for residential use is not feasible due to the inability of the applicant to provide on-site parking and the need to comply with the current D.C. Building Code which was not applicable when the building was constructed. The applicant further contended that the property was not attractive for residential use as evidenced by the vacancy or commercial use of the upper floors of all other structures in the block.

12. The Office of Planning (OP), by memorandum dated November 2, 1988, recommended that the application be denied. The OP was of the opinion that the proposed use would set an unwanted precedent for adjacent properties and the neighborhood in general. The OP was further of the opinion that the owner would not suffer an undue hardship if the building were used for a commercial use on the first floor with residential above as originally constructed. The Board does not concur with OP's recommendation.

13. Advisory Neighborhood Commission (ANC) 2C, by letter dated November 1, 1988, opposed the granting of the subject application. The ANC was concerned that the granting of the application would result in a loss of housing stock in the Old Downtown District and would set a precedent for other properties in the area.

14. In addressing the issues and concerns of the ANC, the Board finds that the property has not been used for residential purposes for many years, nor have the upper stories of adjacent and nearby structures. The Board further notes that it considers each application based on its individual merits.

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.

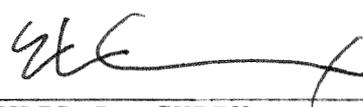
The Board concludes that the applicant has provided sufficient proof to establish an undue hardship inherent in the property. The property is affected by an extraordinary situation based on the existing physical improvements, its location in proximity to existing commercial and light manufacturing type uses, and its inability to be brought into compliance with the D.C. Building Code for residential purposes. The limited rear alley access and almost total lot occupancy preclude provision of on-site parking and servicing needs. Although it is not dispositive of the application, the Board may also recognize an exceptional situation regarding the zoning history of the subject square.

The Board concludes that the applicant has met the burden of proof necessary for the granting of a 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. Accordingly it is ORDERED that the application is GRANTED.

VOTE: 5-0 (Carrie L. Thornhill, Paula L. Jewell, William F. McIntosh and Charles R. Norris to grant; Maybelle Taylor Bennett to grant by proxy).

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

ATTESTED BY:

  
\_\_\_\_\_  
EDWARD L. CURRY  
Executive Director

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

APR 24 1989

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS 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.

14892order/bhs3

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



APPLICATION No. 14892

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a copy of the Order of the Board in the above numbered case, said Order dated APR 24 1989, has been mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Clarene Martin, Chairperson  
ANC 2A  
Garrison School  
1200 S Street, N.W. #202  
DC 20009

Sonny Tabrizian  
2440 Virginia Avenue, N.W. D-908  
DC 20037

P-600 301 941

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED  
NOT FOR INTERNATIONAL MAIL

(See Reverse)

U.S.G.P.O. 153-506

PS Form 3800, June 1985

Sent to <i>S. Tabrizian</i>	
Street and No	
P.O., State and ZIP Code	
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt showing to whom and Date Delivered	
Return Receipt showing to whom, Date, and Address of Delivery	
TOTAL Postage and Fees	\$
Postmark or Date <i>14892</i>	

EDWARD L. CURRY  
Executive Director

DATE: APR 24 1989