

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15283 of the Garfinckel's Real Estate Company, pursuant to 11 DCMR 3108.1, for a special exception under Sections 1701.5 and 1706 to allow the conversion of a portion of an existing department store to office use in a SHOP/C-4 District at premises 1401 F Street, N.W., (Square 224, Lot 824).

HEARING DATE: March 28, 1990
DECISION DATE: March 28, 1990 (Bench Decision)

SUMMARY ORDER

The Board duly provided timely notice of public hearing on this application, by publication in the D.C. Register, and by mail to ANC 2C, 2A and 2B, and to owners of property within 200 feet of the site.

The site of the application is located in Advisory Neighborhood Commission ("ANC") 2C. ANC 2C, which is automatically a party to the application, by letter dated March 14, 1990, filed a written statement of issues and concerns in support of the application. Nor did ANC-2A or 2B submit a written statement of issues and concerns, or request to be treated as an affected ANC.

As directed by 11 DCMR 3324.2, the Board has required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for a special exception pursuant to 11 DCMR 1701.5 and 1706. No person or entity appeared at the hearing or otherwise requested to participate as a party in this proceeding. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, the Board concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3108, and 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 as embodied in the Zoning Regulations and maps. It is therefore ORDERED that the application is GRANTED subject to the following CONDITIONS:

1. Office use shall be permitted on floors 5-9 and the ground (first) floor office lobby and office elevators (located on the far western side of the

building off F Street, N.W.) and consistent with Exhibits No. 9 and 22 of the record. Office use shall also be permitted in tandem with department store use in Common Areas. Common Areas are to include loading docks, freight elevators, fire stairwells and like areas. Further, office use shall enjoy, in tandem with department store use, use of Building Operations Areas. Building Operations Areas shall include floors 10-11 and those portions of the basement now dedicated and required for the operation and maintenance of both office use and department store use areas (boiler rooms, storage tanks areas, etc).

2. Department store use shall have exclusive use of all areas where office use is not permitted, including floors 2-4, the ground (first) floor not including the area to be used for the office lobby and office elevators, and those portions of the basement floors which are not Building Operations Areas. Department store use shall have use of Common Areas in tandem with office use. Further, the department store use shall enjoy, in tandem with permitted office use, the Building Operations Areas.
3. The applicant shall promptly enter into a new lease with Garfinckel's Department Store with terms consistent with those described in Exhibit No. 23A (Exhibit H) of the record.
4. The applicant shall reimburse Garfinckel's Department Store up to \$3,000,000.00 for the stated purpose of upgrading the department store area on floors 1-4.

Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.3 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is not prohibited by law.

VOTE: 4-0 (Paula L. Jewell, William F. McIntosh, Charles R. Norris, John C. Parsons to grant; Carrie L. Thornhill not present, not voting).

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

ATTESTED BY:


EDWARD L. CURRY
Executive Director

APR 19 1990

FINAL DATE OF ORDER: _____

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.

15283order/BHS19

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



APPLICATION No. 15283

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a letter has been mail to all parties, dated APR 19 1970, and mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Andrea Salley, Esquire
Wilkes, Artis, Hedrick & Lane
1666 K Street, N.W.
Suite 1100
Washington, D.C. 20006

Francis Dimond
Garfinckel's Real Estate Co.
1211 Connecticut Avenue, N.W.
Suite 400
Washington, D.C. 20036

George P. Kelly
Garfinckel's Inc.
1401 F Street, N.W.
Washington, D.C. 20005

Clarene Martin, Chairperson
Advisory Neighborhood Commission 2-C
Garrison Elementary School
1200 S Street, N.W., Suite 202
Washington, D. C. 20009

A handwritten signature in black ink, appearing to read "E. L. Curry".

EDWARD L. CURRY
Executive Director

DATE: APR 19 1970