

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 15626 of 1767 P Street Associates, pursuant to 11 DCMR 3108.1, for a special exception under Section 508 to establish law offices in the basement through the third floor in an SP-1 District at premises 1767 P Street, N.W., (Square 156, Lot 811).

HEARING DATES: February 19, May 13, and July 8, 1992  
DECISION DATE: July 29, 1992

ORDER

SUMMARY OF EVIDENCE:

1. The application appeared on the preliminary calendar of the public hearing of February 19, 1992. The applicant failed to submit an affidavit of posting of the property in accordance with Section 3317.7 of the Board's Rules. The applicant's representative requested a postponement of the public hearing in order to address issues and concerns expressed by the Advisory Neighborhood Commission and to ensure that the posting of the property complied with the Board's Rules. The Board continued the case to its public hearing of May 13, 1992.

2. The application appeared on the preliminary calendar of the public hearing of May 13, 1992. The applicant again failed to submit an affidavit of posting as required by Section 3317.7 of the Board's Rules. The applicant testified that the property owners were out of town and he was unable to ascertain whether the property was properly posted. The Board continued the case to its public hearing of July 8, 1992.

3. The subject property is located on the north side of P Street between 17th and 18th Streets and is known as premises 1767 P Street, N.W. It is zoned SP-1.

4. The property is irregularly shaped. From the P Street frontage for a depth of 50 feet, the property is 25 feet wide, then it narrows to 19 feet for the remaining depth of the property of 45.5 feet. The lot has a land area of 2,115 square feet and abuts a 12-foot wide public alley to the rear.

5. The property is improved with a three-story plus basement brick row structure which was previously used as a four-unit apartment house. The structure is currently vacant and has a gross floor area of approximately 4,874 square feet.

6. The property is located within a strip of SP zoning which extends along 18th Street from N Street to R Street N.W. The subject site is the second of four SP-1 zoned lots which front on P Street. The lot immediately to the west of the subject site is occupied by the Malaysian Chancery. The two SP-zoned lots immediately east of the subject site are used for residential purposes. St. Thomas's Episcopal Church is located in the SP-1 District north of the property, across the 12-foot wide public alley. The remaining portion of the block on the north side of P Street is zoned R-5-B and is developed with single-family row dwellings and a mixture of high, medium and low density apartment buildings.

7. The surrounding area is generally developed with a mixture of residential uses and accessory parking lots in the R-5-B District north of P Street and the R-5-D District south of P Street; a mixture of residential, office and institutional uses in the SP-1 District along 18th Street; and neighborhood commercial uses in the C-2-B District on the east side of 17th Street.

8. The applicant proposes to convert the existing structure for use as a law office. No exterior modifications to the structure are proposed.

9. A lawyer's office is permitted in the SP District if approved by the Board, subject to the provisions of 11 DCMR 508, as follows:

- 508.2 Each application shall be referred to the Office of Planning in accordance with the provisions of Subsection 500.6;
- 508.3 The use, height, bulk, and design shall be in harmony with existing uses and structures on neighboring property;
- 508.4 The use shall not create dangerous or other objectionable traffic conditions; and,
- 508.5 The Board may require special treatment in the way of design, screening of buildings, accessory uses, signs, and other facilities as it shall deem necessary to protect the value of neighboring property.

10. The proposed law office would serve a single attorney and two employees. The hours of operation would be from 9:00 a.m. to 5:30 p.m., Monday through Friday.

11. The applicant does not propose any exterior modifications to the existing building, retaining the residential appearance and character of the site. The property is located within the Dupont Circle Historic District, therefore, the existing residential character of the building is further protected under the Historic Preservation Regulations pursuant to D.C. Law 2-144.

12. The applicant testified that there will be no adverse or other objectionable traffic conditions. The subject site is well-served by public transportation. There are approximately 21 Metrobus routes within walking distance along Massachusetts Avenue, Connecticut Avenue, New Hampshire Avenue, and 18th Street and the Dupont Circle Metro station is located approximately three blocks west of the site. The applicant anticipates that all three occupants of the proposed office will use public transportation.

13. The applicant testified that client travel to the site would be varied. There are three on-site parking spaces at the rear of the site to serve any parking needs generated by the proposed use. In addition, parking on surrounding streets is controlled by residential parking permits which restrict parking by nonresidents to no more than two hours from 7:00 a.m. to 8:30 p.m., Monday through Friday.

14. The applicant testified that the property was recently remodeled for apartment use and has been unsuccessfully offered for lease or sale for residential purposes for more than one year. At present, the site is vacant and has been subjected to a number of break-ins and use for drug and alcohol abusers.

15. The applicant testified that the proposed use will not have an adverse impact on the neighborhood. The subject site is separated from the R-5-B District by two SP-1 zoned row structures used for residential purposes, and by a public alley. The applicant testified that the proposed low-intensity office use would provide an appropriate buffer between the chancery use to the west of the subject site and the residential structures east of the subject site.

16. The Office of Planning, by memorandum dated May 6, 1992, recommended denial of the application. The OP was of the opinion that the proposal would create negative impacts on the residential character of P Street and that the SP District should protect existing residential uses from commercial encroachment.

17. The D.C. Fire Chief, by memorandum dated March 26, 1992, offered no objection to the proposal. Based on its review, the Fire Department determined that the application would not adversely impact emergency operations in the area.

18. The Department of Public Works (DPW), by memorandum dated March 3, 1992, offered no objection to the application. The DPW was of the opinion that the proposed use of the currently vacant building would have a minimal transportation impact on the neighborhood.

19. By letter dated February 13, 1992 and by representative at the public hearing, Advisory Neighborhood Commission (ANC) 2B opposed the granting of the application. The issues and concerns expressed by the ANC are summarized as follows:

- a) The proposed use is not compatible with the existing residential development in the area nor with the goals and objectives of the Comprehensive Plan.
- b) The proposal will result in an additional loss of residential housing.
- c) The structure has a history of residential use and should remain residential in that the Brookings PUD located in the same block requires that the P Street frontage of its property be used for residential purposes.
- d) The proposed use will increase existing traffic congestion in the area.

20. The Dupont Circle Citizens Association, by representative at the public hearing and by letter dated July 8, 1992, opposed the granting of the subject application. The DCCA expressed essentially the same issues and concerns submitted by the ANC and reiterated its desire to retain the residential character of the 1700 block of P Street on both the north and south sides of the Street.

21. By letter dated July 8, 1992 and by testimony at the public hearing, Councilmember Jack Evans opposed the application. Councilman Evans was of the opinion that once commercial development occurs in a residential area within an SP zone district, the residential character is soon lost and that the residential character of the subject block should be retained.

22. The record contains several letters and petitions and several persons testified at the public hearing in opposition to the application. The issues and concerns of the opposition are generally as set forth in the ANC report.

23. The Board left the record open at the conclusion of the public hearing in order to receive the advice of the Office of the Corporation Counsel with respect to whether the proposed special exception use, in and of itself, can be determined to have an adverse impact on neighboring property and whether the Board may

consider the possibility of an imbalance between residential and nonresidential use in an area as an adverse impact.

24. By memorandum dated July 23, 1992, the Office of the Corporation Counsel responded to the Board's request for advice, which is summarized as follows:

- a) The Board's discretion to grant special exceptions is limited to a determination whether the special exception sought meets the requirements of the Zoning Regulations. The applicant bears the burden of showing compliance with the relevant criteria. Once the applicant has made the requisite showing, the Board ordinarily must grant the application.
- b) Maintaining the stability of the residential character of an area in the SP District is not an issue properly before the Board. In *Wheeler vs. the BZA* (DC App. 395 A.2d 85[1978]), the court held that the structure and purpose of the Zoning Regulations are such that once the Board has determined that an application satisfies the relevant special exception provisions of the Zoning Regulations, it follows as a matter of law that the application is consistent with the designed purpose of the zoning district. Thus, the court noted, "stability", as such, is not an issue - rather it is the expected result of the Board's adherence to the regulations."
- c) The evidence establishing the adverse impact of the conversion of the subject property to office use must go beyond those effects inherently associated with office use, e.g., occupancy of the premises only during business hours. The presumption that the special exception use is in harmony with the neighborhood and promotes the general welfare cannot be overcome unless there are strong and substantial facts or circumstances showing that the proposed use has detrimental effects above and beyond those ordinarily associated with such uses.

**FINDINGS OF FACT:**

1. The Board finds that the applicant has met the requisite burden of proof, as follows:

- a) The use, height, bulk, and design are in harmony with the existing uses and structures on neighboring property. No exterior alterations or additions to the property are proposed. The site abuts the Malaysian Chancery to the west, St. Thomas' Episcopal Church to the north and residential uses to the east.

- b) The use will not create dangerous or other objectionable traffic conditions. The D.C. Department of Public Works found that the proposed use would have a minimal transportation impact on the area. The use, as hereinafter conditioned, would be limited to three employees. Three parking spaces are provided on-site. The premises are located with convenient access to public bus and subway routes.

2. In addressing the issues and concerns expressed by the ANC, the OP, and the opposition, the Board finds as follows:

- a) As set forth in the memorandum from Corporation Counsel, the showing of compliance with the special exception criteria evidences that the proposed use is consistent with the designed purpose of the SP District and "stability" is the expected result of adherence to the Zoning Regulations.
- b) The subject site is not residentially zoned and, therefore, must be considered in light of its existing SP-1 zoning. The proposed office use is consistent with the purpose of the SP District to (1) stabilize those areas adjacent to C-3-C and C-4 districts and other appropriate areas that contain existing apartments, offices and institutions and mixed use buildings; (2) act as a buffer between adjoining commercial and residential areas, and ensure that new development is compatible in use, scale, and design with the transitional function of this zone district; and (3) preserve and protect areas adjacent to commercial districts that contain a mix of rowhouses, apartments, offices, and institutions at a medium to high density.
- c) The proposed office use for three employees is not likely to create more traffic congestion or parking demand than the previously existing four-unit apartment buildings.

**CONSLUSIONS OF LAW AND OPINION:**

Based on the foregoing findings of fact and evidence of record, the Board concludes that the applicant is seeking a special exception to allow the conversion of a vacant four-unit apartment building into professional offices in an SP-1 District. The granting of such a special exception requires a showing through substantial evidence that the proposed use is in harmony with the general purpose and intent of the Zoning Regulations and Map and

will not tend to affect adversely the use of neighboring property. The applicant must also meet the requirements of Section 508 regulating office uses in an SP District.

The Board concludes that the applicant has met the requisite standards for granting the requested relief. The Board concludes that the area surrounding the subject property contains a mixture of uses with residential structures of varying height, bulk and design in the R-5 District and a mixture of residential, office and institutional uses in the SP District in the immediate area of the site. In the Board's opinion, the proposed use, height, bulk and design are in harmony with the existing uses and structures on neighboring property. The Board concludes that the proposed use, as hereinafter conditioned, will not create dangerous or other objectionable traffic conditions.

Because the special purpose district is intended to have a mix of uses, the Board concludes that granting the application will be in harmony with the general purpose and intent of the Zoning Regulations and Map and will not affect adversely the use of neighboring property.

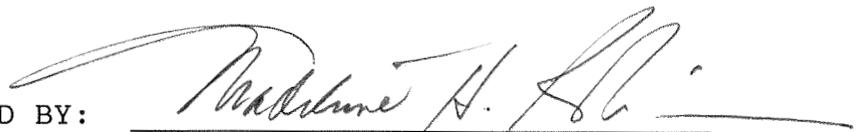
The Board concludes that it has given the ANC the "great weight" to which it is entitled. Accordingly, it is **ORDERED** that the application is **GRANTED**, **SUBJECT** to the following **CONDITIONS**:

1. The number of employees shall not exceed three; one attorney and two support staff.
2. Three parking spaces shall be provided on-site. Two of the on-site parking spaces shall be reserved exclusively for visitor parking.

VOTE: 3-0 (Carrie L. Thornhill, Paula L. Jewell to grant; Tersh Boasberg to grant by absentee vote; Angel F. Clarens and Sheri M. Pruitt not voting, not having heard the case).

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

ATTESTED BY:



MADELIENE H. ROBINSON  
Director

FINAL DATE OF ORDER:

SEP 28 1994

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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, 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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GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 15626

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on SEP 28 1994 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

David Wilmot  
Harmon and Wilmot  
1010 Vermont Avenue, N.W.  
Washington, D.C. 20005

Mr. Dennis Bass, Chairperson  
Advisory Neighborhood Commission 2B  
1347 Connecticut Avenue, N.W., #2  
Washington, D.C. 20036

Guido Fenzi  
Dupont Circle Citizens Association  
1824 16th Street, N.W.  
Washington, D.C. 20009

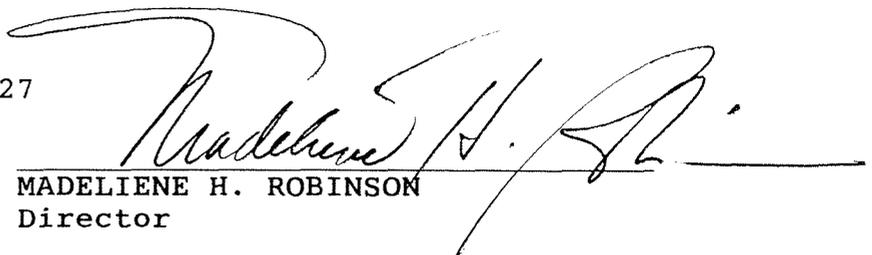
Linda Greenan  
1709 P Street, N.W.  
Washington, D.C. 20036

M. Craig Pascal  
1718 P Street, N.W. #L5  
Washington, D.C. 20036

John Boggess  
1705 P Street, N.W. #44  
Washington, D.C. 20036

1767 P Street Associates  
1501 18th Street, N.W.  
Washington, D.C. 20009

Dennis Cotto  
1908 Florida Avenue, N.W. #227  
Washington, D.C. 20009

  
MADELIENE H. ROBINSON  
Director

DATE: SEP 28 1994