

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 16155 of the Welch Family Business Trust Eight, pursuant to 11 DCMR 3107.2, for a variance from the use provisions (Subsection 330.5) to allow auto repair and storage in an R-4 District at premises 2117 Flagler Place, N.W., (Square 3119, Lot 801).

HEARING DATE: OCTOBER 2, 1996

DECISION DATE: NOVEMBER 6, 1996

ORDER

SUMMARY OF EVIDENCE

1. The correct address of the subject property is the rear of 2117 Flagler Place, N.W.

2. The subject site is located in the interior of Square 3119 and contains 4,935 square feet of land area. This square is bounded by Flagler Place on the west, 1st Street on the east, V Street on the south, and W Street on the north. The site is improved with a large one-story commercial garage originally constructed in 1910.

3. The area surrounding the site contains primarily row dwellings and small apartment buildings. A number of other small commercial uses are also located directly adjacent to the site (to the east) in Square 3119. The N.P. Gage Elementary School is located to the southwest of the site in Square 3115.

4. The site is located in an R-4 District. This district permits matter-of-right development of residential uses, including detached, semi-detached and row single-family dwellings, and flats; with a minimum lot area of 1,800 square feet, a minimum lot width of 18 feet, a maximum lot occupancy of 60 percent, and a maximum height of three stories/40 feet. An auto repair and storage establishment is not a permitted use in an R-4 District.

5. The applicant is the owner of the subject site. Mr. Robert Schools is the operator/user of "R & S Auto Parts", the auto repair and storage business currently on the site that will benefit if the variance relief is granted.

6. The applicant is proposing to use the subject one-story structure as a vehicle repair garage. The hours and days of operation (as amended in concession to neighborhood concerns) would be from 9:00 a.m. to 4:00 p.m., Monday through Friday and 9:00 a.m. through 1:00 p.m. Saturday, and would employ one part-time employee as

needed. All repair activities would take place inside the building behind closed doors. Trash and refuse generated by the operation would be stored on the property inside the building and hauled away by the applicant. The applicant would bring needed parts and supplies to the site as needed. No vehicles, supplies or parts would be stored outside the building. Parking would be provided on-site next to the structure alongside the alley.

7. The applicant contends that an undue hardship exists from the fact that the structure was originally built for commercial garage purposes in 1910. To use it for anything other than its previous use (as an automobile repair and storage operation) would require a reconfiguration of the property in order to correct a problem that is inherent in the property itself.

8. The applicant further contends that the proposed relief would not serve to create substantial adverse area impacts, as the shop is an asset and a credit to the neighborhood, and helps to contribute to the safety and security of the neighborhood. Finally, he contends that the integrity and purpose of the zone plan would not be affected.

9. The D.C. Office of Planning (OP) stated both in its written report and its testimony, that an undue hardship did exist because the structure was built for commercial purposes in 1910, and would not be appropriate for R-4 matter-of-right residential uses. OP also stated in its written report that the proposed use would not severely impair the intent, purpose and integrity of the R-4 zone, nor would there be severe area impacts. OP therefore recommended approval subject to four conditions it provided in its report. However, OP was not aware at the time of the writing of its report that there was community opposition to the application. Therefore, during the October 2, 1996 hearing, OP created a caveat to its approval: if the Board finds that a negative impact on the Zoning Regulations exists and that there are adverse area impacts, then OP would recommend denial of the application.

10. Advisory Neighborhood Commission (ANC) 5C in two separate meetings voted unanimously to oppose the application, as there was found to be a substantial detriment to the public good, and an impairment of the intent, purpose, and integrity of the zone plan.

11. Those opposing the application sent in numerous letters, submitted a petition, and offered testimony to the effect that granting the application would be a detriment to the current residential nature of the community, and would decrease property values. In addition, those in opposition offered evidence to show that those problems that were currently being caused by the applicant's existing operation such as traffic, compromised privacy, alley congestion, air pollution, security concerns, property damage, noise, and garbage would all be exacerbated and would continue were the application granted.

12. The applicant also presented a petition and letters from community members who were in support of the application and who believed that the applicant's presence promoted safety in the community. The applicant also testified that his neighbors were fabricating the stories and complaints, and that all accusations were unfounded. An attempt by the applicant to engender a compromise with his neighbors after the Hearing (whereby he would limit his hours of operation and would keep the alley free from cars whenever present), was rejected both by the ANC and by the community members in opposition.

FINDINGS OF FACT

Based on the evidence of record, the Board finds as follows:

The proposed use will have an adverse impact on the neighborhood by creating problems with traffic, privacy, pollution, congestion, security, noise and other adverse impacts noted by the opposition in its testimony.

CONCLUSIONS OF LAW

Based on the foregoing findings of fact and evidence of record, the Board concludes that the Welch Family Business Trust Eight, by its application, is seeking an use variance pursuant to 11 DCMR 3107.2 (Subsection 330.5) to allow auto repair and storage in an R-4 District at premises 2117 Flagler Place, N.W. (Square 3119, Lot 801).

The granting of such variances require a showing through substantial evidence that the application can be granted when an undue hardship, unique to the specified property and inherent in the property itself, would result were this application not granted, and that the requested variance can be granted without substantial adverse area impacts and without impairing the intent, purpose, and integrity of the Zoning Regulations

The Board concludes that the opposition made its case by the weight of its evidence, and, therefore concludes that substantial adverse impacts would result if this application were to be granted.

The Board concludes that it has accorded the written report of ANC 5C the "great weight" to which it is entitled.

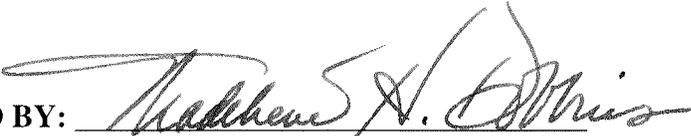
Based on the foregoing, the Board **ORDERS** that this application be **DENIED**.

VOTE: 3-1 (Laura M. Richards and Sheila Cross Reid to deny the application; Susan Morgan Hinton to deny the application by absentee vote; Jerrily R. Kress opposed to the motion by absentee vote; Angel F. Clarens not voting, not having heard the case).

BZA APPLICATION NO. 16155

PAGE NO. 4

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

ATTESTED BY: 

MADELIENE H. DOBBINS

Director

FINAL DATE OF ORDER: OCT 23 1997

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."

ord16155/AZ

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 16155

As Director of the Board of Zoning Adjustment, I certify and attest that on OCT 23 1997 a copy of the order entered on that date in this matter was mailed first class, postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Kenneth J. Welch
1422 K Street, NW #652
Washington, D.C. 20005

Robert Schools
65 U Street, NW
Washington, D.C. 20001

Audrey C. Hipkins-Jones
2113 Flagler Place, NW
Washington, D.C. 20001

Christopher T. Garrett
2115 Flagler Place, NW
Washington, D.C. 20001

Scott Roberts
125 W Street, NW
Washington, D.C. 20001

James D. Berry, Jr.
Chairperson
ANC 5C
1723 3rd Street, NE
Washington, D.C. 20002

Attested By:

A handwritten signature in cursive script, reading "Madeliene H. Dobbins", written over a horizontal line.

MADELIENE H. DOBBINS
Director

Date: OCT 23 1997