

Before the Board of Zoning Adjustment, D.C.

PUBLIC HEARING--August 18, 1965

Appeal #8295 Sam Zell, Philip Hochberg, Murray Hammerman, et al. appellants.

The Zoning Administrator District of Columbia, appellee.

On motion duly made, seconded and unanimously carried the following Order was entered on August 25, 1965:

ORDERED:

That the appeal for a variance from the use provisions of the C-1 District to establish an automobile repair shop, including body and fender work, in conjunction with an existing gasoline service station at 4131 Minnesota Avenue, N.E., lot 28, square 5077, be denied.

As the result of an inspection of the property by the Board, and from the records and the evidence adduced at the hearing, the Board finds the following facts:

(1) Appellant's lot, which is located in the C-1 District, has a frontage of approximately 106 feet on Minnesota Avenue and contains an area of 3427 square feet.

(2) The property is improved with a two pump gasoline service station which appellant contends makes it uneconomical to operate. He further states that if permitted to change the use to an auto repair shop, including body and fender work, he would be able to keep a tenant on the premises which has not been the case in the past.

(3) The zoning of the general area consists of C-M-1 across Minnesota Avenue which is the location of the railroad tracks of the Baltimore and Ohio Railroad. South of appellant's lot the zoning is C-1 and northeast of the site property is located as C-M-1 strip zoning. To the east the property is zoned R-5-A with the exception of two lots adjoining appellant's property which is zoned C-1.

(4) The C-1 District permits a gasoline service station, without major repair work, through approval of this Board after public hearing. The C-2 District requires the same approval except a repair garage also may be permitted without body and fender work. The C-3 District requires the same approval except major repairs including body and fender work may be permitted. The type of operation contemplated by appellant may go into the C-M and M Districts as a matter-of-right.

(5) Appellant has requested a variance from the use provisions of the C-1 District and must prove, among other things set forth in paragraph 8207.11 of the Zoning Regulations, that the land cannot be economically used for its zoned purpose. He must further prove 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 maps.

(6) There was opposition to the granting of this appeal registered at the public hearing by the adjoining property owner at 4127 Minnesota Avenue who stated

that the gasoline station was a nuisance and that a repair shop would be worse. She further contended that junk cars were there before the last tenant moved and that teen agers and adults hung out in the garage at night.

OPINION:

We are of the opinion that appellant has failed to prove a hardship within the provisions of paragraph 8207.11 of the Zoning Regulations and further, that the granting of this relief would result in substantial detriment to the public good and would substantially impair the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and map.

We are further of the opinion that the type of business contemplated would have adverse affect, upon the abutting property owner as well as other persons residing nearby on Grant Street and Gault Place.

It is to be noted that the C-1 District was established to provide retail and personal service establishments for a small tributary area, whereas this type of business requires a C-M or M zoning to be permitted as a matter-of-right.