

Before the Board of Zoning Adjustment, D. C.

PUBLIC HEARING -- April 13, 1966

Appeal No. 8683 Frank A. Miceli, appellant.

The Zoning Administrator of the District of Columbia, appellee.

On motion duly made, seconded and unanimously carried, the following Order was entered at the meeting of the Board on April 27, 1966.

EFFECTIVE DATE OF ORDER -- May 31, 1966

ORDERED:

That the appeal for a variance from the use provisions of the R-5-B District to permit erection of a drug store and a bank at Ontario and Columbia Roads, NW., lots 23 thru 27 inclusive, square 2580, be denied.

From the record and the evidence adduced at the public hearing, the Board finds the following facts:

- (1) Appellant's five lots are located in an R-5-B District.
- (2) The lots are improved with row houses.
- (3) Appellant now owns a drug store in a C-2 District which abuts the R-5-B property.
- (4) Appellant desires to develop the entire R-5-B and C-2 site with a drug store, a bank, and related parking facilities.
- (5) The entire site contains approximately 14,260 square feet, only 5300 square feet of which can be developed as commercial.
- (6) Appellant alleges that a typical chain drug store requires a minimum of 8,000 to 10,000 square feet on street grade plus storage space.
- (7) Existing regulations covering the C-2 District will permit two stories of commercial use having a total area of 10,600 square feet. Appellant alleges that the second story of commercial area will not be usable for the specific purposes he has in mind, namely, the chain drug store, the bank with related parking facilities, and that in order to compete and make possible the proposed development it is necessary that he be granted a variance to permit the R-5-B lots owned by him to be developed as a unit with

his C-2 property.

(8) Appellant also claims that the line drawn separating the C-2 zoning from the R-5-B zoning was arbitrarily set at the time of adoption of the zone plan. The line was drawn arbitrarily because of existing conditions and now constitutes a barrier to proper development of the site.

(9) Appellant states his position: ". . . this appeal is well within the scope of this Board's activity, because of such exceptional narrowness and shallowness of the piece of property and the exceptional and extraordinary situation created by the arbitrary adoptions of the zone line as shown."

(10) Development of the entire R-5-B and C-2 site as proposed by appellant will require 56 parking spaces, of which 12 spaces are required because of the fact that the proposed storage space is located on the mezzanine level instead of the basement level.

(11) Appellant alleges that he can provide 50 parking spaces on the site but that if he is required to provide the additional 6 spaces as required by the Zoning Regulations there will be a loss of rentable spaces on the first floor in the approximate amount of 2500 square feet which will render the entire project economically impracticable.

(12) Appellant states that he previously asked the Zoning Commission for a change to C-3-B.

(13) No opposition was registered at the public hearing to the granting of this appeal. However, the record contains a letter from the Kalorama Citizens Association, Inc., expressing opposition to the granting of this appeal.

OPINION:

We are of the opinion that appellant has failed to prove any hardship within the meaning of the variance clause of the Zoning Regulations. The arguments set forth by the appellant go to the merits of the existing zoning. In the opinion of the Board this question is outside the scope of the Board of Zoning Adjustment's jurisdiction, and the appellant is seeking a change in zoning. Although the request is veiled in the language of a variance, the desired relief can only be granted by the Zoning Commission. In

OPINION Cont'd

recognition of that fact, the appellant now has an application for a zoning change before the Zoning Commission. We defer to the Zoning Commission's jurisdiction and deny the subject appeal as being beyond the scope of the Board's jurisdiction.