

Before the Board of Zoning Adjustment, D.C.

PUBLIC HEARING -- July 13, 1966

Appeal No. 8821 New Hampshire Associates et al, appellants.

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 July 18, 1966.

EFFECTIVE DATE OF ORDER -- Oct. 11, 1966

ORDERED:

That the appeal for a variance from the provisions of Section 3105.42(e) or in the alternative variance of the use provisions of the R-5-D District to permit a beauty salon in basement of existing building at 1255 New Hampshire Avenue, NW., lot 48, square 99, be denied.

FINDINGS OF FACT:

(1) Appellants' property is located in an R-5-D District.

(2) Section 3105.42 provides that "Sale of the following convenience commodities and services, as accessory uses and appropriate adjuncts to an apartment house which are designed to service the tenants' daily living needs: foods, drugs, sundries, and personal services, provided that:" \* \* \*

"(e) The center of the principal entrance of such apartment house is more than one-fourth mile walking distance from the nearest principal business street frontage of any business district previously established and operating in a Commercial or Industrial District."

(3) Appellants' property abuts an area zoned C-3-B.

(4) Appellants propose to operate a beauty shop in the basement of subject property, the Hamilton House. The shop would have from three (3) to six (6) operators. The space proposed to be used is now used for storage and laundry room.

(5) The building has 304 units and the beauty shop is proposed to serve only the tenants of the building.

(6) It was stated that the distance from the principal entrance from the apartment to the C-3-B District is one-half block. A beauty shop is located at 1815 M Street, three-tenths of a mile from the building and other hair stylists are located on Connecticut Avenue, three-tenths of a mile from the property.

(7) Appellants maintain that Section (e), which is quoted above, should be interpreted to mean the distance from the main entrance to the nearest similar use. In addition, appellants argue that the subject space cannot be used for the zoned purpose as it is underground space.

(8) By letter dated July 14, 1966 appellants indicated that the architects for the property state that the space designated for use as a beauty salon was not included in the floor area ratio.

(9) The record contains a petition supporting the appeal signed by forty-six tenants of the building. No opposition to this appeal was registered at the public hearing.

OPINION:

We are of the opinion that appellants have failed to prove any unusual situation or condition inherent in the property within the meaning of the variance clause of the Zoning Regulations, and that the establishment of a beauty shop in the subject building would have an adverse impact on the nearby commercially zoned property and would therefore affect adversely the present character and future development of the neighborhood.

The Board refuses to accept the interpretation that Section (e) of the Regulations refers to the distance from the entrance of the subject property to the nearest similar use. It is not reasonable to presume that the Zoning Commission, as argued by the appellants, contemplated that any proposed adjunct in a residential building required a similar use in the nearest commercially zoned area. We conclude that the close proximity of the existing commercial property to the subject building is sufficient to serve this building without the creation of a beauty shop adjunct.

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Further, the establishment of such an adjunct commercial use would not be in harmony with the general purpose and intent of the zone plan as embodied in the Zoning Regulations and Map.