

Before the Board of Zoning Adjustment, D.C.

PUBLIC HEARING -- August 24, 1966

Appeal No. 8880 Gertrude Burrell, 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 September 20, 1966.

EFFECTIVE DATE OF ORDER -- May 3, 1967

ORDERED:

That the appeal for a variance from the use provisions of the C-1 District to permit body and fender repair on premises 4611 Deane Avenue, NE. and storage of autos on adjoining lots at 4607-4611 and 4619 Deane Avenue, NE., lots 19, 20 and 79, square 5147, be denied.

FINDINGS OF FACT:

(1) The subject property is located in a C-1 District in a triangle between Deane Avenue and Gualt Place, NE.

(2) Appellant desires to make body and fender repairs on lot 79 and lots 19 and 20 as a storage area for automobiles awaiting repairs which will be made at the auto repair shop located on lot 79.

(3) Appellant states that the property has been used for an automobile repair shop including body and fender repair for approximately 25 years.

(4) The Board made an exterior inspection of the premises on September 12, 1966 and found the two lots proposed for automobile storage to be fenced and paved and now being used for that purpose. In addition, there were large dogs within the fenced area and trucks waiting for service were parked on the streets adjacent the property.

(5) Opposition to the granting of this appeal was registered at the public hearing. The Central Northeast Civic Association, Inc. opposed this appeal. In addition, several persons appeared at the public hearing to express their opposition, all of whom are residents of the immediate area.

OPINION:

This appeal is for a variance from the use provisions of the C-1 District. Appellant must establish that some hardship inherent in the land prevents the use of the property for its zoned purpose, and appellant has failed to show such a hardship. The only evidence presented went to the existing use of the property and the desire to continue the asserted long standing use. The subject property can be used for a C-1 purpose without question. Therefore, the requested variance must be denied for failure to prove a hardship within the meaning of the variance clause of the Zoning Regulations.

The Board is not authorized to add to the list of permitted nonconforming uses in the absence of a showing of exceptional or extraordinary conditions relating to the property. Such a function is a legislative one, and is reserved for the Zoning Commission.

However, we believe there may be a basis for considering an appeal relating to this proposed use as a nonconforming use change, and the appeal is denied without prejudice to refileing as a nonconforming use change.