

Before the Board of Zoning Adjustment, D.C.

PUBLIC HEARING -- January 18, 1967

Appeal No. 9078 Samuel H. Keets, appellant.

The Zoning Administrator of the District of Columbia, appellee.

On motion duly made, seconded and carried, with Mr. William F. McIntosh dissenting, the following Order was entered at the meeting of the Board on January 27, 1967.

ORDERED:

That the appeal for a variance from the use provisions of the R-4 District to permit conversion of building into hotel at 1825 - 13th Street, NW., lots 812 and 813, square 275, be denied.

FINDINGS OF FACT:

- [1] The subject property is located in an R-4 District.
- [2] The property is improved with a large brick structure, a portion of which is three-story and a portion of which has an english basement. The building has forty rooms.
- [3] Appellant stated that the building was originally licensed as a hotel from 1938 to 1944 at which time the District of Columbia required that hotels have a dining room off the main lobby. At that time, the building had no dining room.
- [4] A dining room was added to the building in 1945.
- [5] The building was occupied as a rooming house from 1944 until 1960.
- [6] In 1965 the building was leased to the Peter's Business School for use as a dormitory.
- [7] It is now desired to revert the building to hotel use.
- [8] Section 3105.34 of the Zoning Regulations provides that hotels are first permitted as a matter of right in the R-5-B District.
- [9] There was no opposition to the granting of this appeal registered at the public hearing.

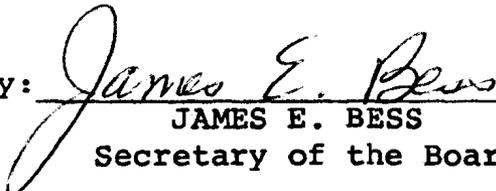
OPINION:

This appeal must be denied. This property had a legal use as a hotel prior to the Zoning Regulations enacted May 12, 1958. If the hotel use had been existing at that time, the property would have been termed a nonconforming use. Inasmuch as the property was devoted to permitted uses from 1944 until the present there are no nonconforming rights. There is no question that the property can be used for R-4 purposes. The only reason expressed for justification for the variance from the use is that the property will produce more income as a hotel than it does as a rooming house. We interpret the variance clause to mean that a variance from the use can be granted only upon evidence that the subject property cannot be used for its zoned purpose, not that the zoned purpose is not the most economical use of the property.

We are further of the opinion that the use variance takes on the character of a zone change. Changes in zoning are not within the jurisdiction of this Board and are solely the province of the Zoning Commission. To grant this variance would not be consistent with the intent and purpose of the Regulations and maps and consequently against the public interest and would tend to impair the present character and future development of the neighborhood.

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

ATTESTED:

By:   
\_\_\_\_\_  
JAMES E. BESS  
Secretary of the Board