Before the Board of Zoning Adjustment, D.C.

PUBLIC HEARING -- September 13, 1967

Appeal No. 9345 Dr. Reuben E. Stone et ux, 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 September 19, 1967.

ORDERED:

That the appeal for variance from the use provisions of the R-5-A District to permit continuation of dental office at 3417 Minnesota Avenue, SE., lot 804, square 5440, be denied.

FINDINGS OF FACT:

[1] The subject property is located in an R-5-A District.

[2] The property is improved with a two-story brick apartment building containing four units.

[3] The property is owned by a physician who formerly resided on the property. The office was located in the building from 1943 to 1966. The owner is now disabled and no longer in practice of medicine.

[4] One of the other apartments was occupied by a Dr. Kraft in 1946 and plumbing was installed to fit the unit for dental offices. Subsequent to Dr. Kraft, there was a Dr. Webb who occupied the office from 1961 to 1965 and the current dental practitioner who moved into the office in 1965 and continues to the present.

[5] The real estate agent testified that he was not aware that any of the occupants of the office had occupancy permits.

[6] The dentist now occupying the building testified that the unit where his office is located has been altered and $20,000 worth of equipment installed.

[7] By letter dated October 20, 1967 (BZA Exhibit No. 11), the dentist now occupying the premises stated that Dr. Kraft had a residential unit in the building.

[8] At its executive session on October 31, 1967, the Board, by unanimous vote, denied reconsideration or a rehearing of this case.

[9] No opposition to the granting of this appeal was registered at the public hearing.

OPINION:

We are of the opinion that this appeal must be denied. In order to support a variance from the use provisions of the statute, there must be a showing that the property cannot be used for its zoned purpose. There is no such showing in this case. The evidence only indicates that there has been a dental office use over a period of years without the benefit of an occupancy permit. Although the use actually existed, there can be no nonconforming use nor can it be shown that the property is not usuable under the R-5-A regulations. In fact, one of the dentists actually resided on the premises. This meets the requirements of the Regulations. The monetary investment cannot be used as the sole support for a variance from the Regulations.

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

ATTESTED:

By: James E. Bess
JAMES E. BESS
Secretary of the Board