

Before the Board of Zoning Adjustment, D.C.

PUBLIC HEARING -- March 20, 1968

Appeal No. 9532 Elizabeth Y. Dickinson, 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 17, 1968.

ORDERED:

That the appeal for variance from the use provisions of the R-3 District to permit architect's office at 2212 R Street, NW., lot 15, square 2512, be denied.

FINDINGS OF FACT:

[1] The subject property is located in an R-3 District.

[2] The property is improved with a three-story brick row house with basement fully above ground level in the rear. The lot contains approximately 3,476 square feet and the building covers approximately two-thirds of the lot.

[3] The building contains seventeen (17) rooms excluding baths, kitchen, closets, hallways and stairs. The subject property is the last piece of property in the 2200 block of R Street now being used as a single-family residence.

[4] The site has space to accommodate three off-street parking spaces.

[5] It is proposed that the building be used as the office and residents of an architect. The first floor would be a combination reception and conference area. Offices would be located in the rear portion of the basement which is at ground level. The upper floors would be offices and residential and service areas.

[6] It was stated that no more than twelve persons would be on the architect's staff.

[7] The attorney for the owner states that there are only three private residences located in the square in which the subject premises are located, the other building being occupied by chanceries or other diplomatic offices, public relations offices, research or education institutions and boarding houses.

[8] The attorney representing the owner stated that the property has been on the market, "more or less", since 1950 without any interest for single family use.

[9] In 1953 a contract of purchase was submitted by The Middle East Institute and The George C. Keiser Foundation for use as a private school. The appeal No. 3509 this proposed use was denied by the Board on April 15, 1953.

[10] The file contains two letters from realtors of the District of Columbia who state that the property is of such size, and the neighborhood uses are such, that it would be difficult to sell for single family residential purposes.

[11] The asking price for the property was \$69,500 in 1951 and is now \$150,000.

[12] By letter dated March 19, 1968 the Vice President of the J.F. Begg, Inc. (BZA Exhibit No. 19) states, "This property was originally listed with our firm on January 26, 1951, and has been more or less continually on the market ever since that time and was in fact submitted to the Government of Iceland as a possible location for its new embassy in 1965, but obviously not acceptable, for they have since located elsewhere."

[13] The present owners have owned the property since 1930 and now reside on the premises. Testimony indicates that they have refused to allow the property to be offered for sale by newspaper advertisement and that the property may not be posted for sale.

[14] The Sheridan Kalorama Neighborhood Council supported this appeal. No opposition to the granting of the appeal was registered at the public hearing.

[15] At the public hearing held on April 17, 1968 the attorney for the appellant requested that the Board reconsider or rehear the appeal, which was denied on March 26, 1968. At its meeting held April 17, 1968 the Board denied the request for rehearing on the ground that there was no new evidence that was not or could not reasonably have been presented at the original hearing.

[16] At the February 14, 1968 public hearing, the attorney for the appellant asked the Board to forward to the National Capital Planning Commission a Motion for Review and Report. The report was to encompass the following:

- (a) The existing kinds and types of uses of the neighboring property;
- (b) Whether the proposed use would adversely affect the existing uses of neighboring property;
- (c) Whether the proposed use would be detrimental to the public good;
- (d) Whether proposed use would affect adjoining and nearby property because of noise, traffic, and number of people;
- (e) Whether the proposed use would tend to preserve and stabilize the architectural design, arrangement, scale and character of the neighborhood;
- (f) Whether the proposed use would be compatible with the present development; and
- (g) In conclusion, whether the granting of a variance from the strict application of the Zoning Regulations so as to permit the proposed use would substantially impair the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and map."

[17] The report was submitted to the NCPC and by letter dated March 19, 1968, the NCPC reported that it recommended against the variance, stating: "The Commission further recommended that the Zoning Commission study the establishment of a general policy for professional offices in residence districts."

OPINION:

We are of the opinion that this request for a variance from the use provisions of the R-3 District must be denied. Use variances can be granted in only the most exceptional of cases. Even then, the asserted hardship must relate to a peculiarity of the particular piece of property which prevents its use for its zoned purpose, and such hardship should be inherent in the land. Appellant has failed to show such a hardship. There is no question that the property can be used for the residential purpose which it is zoned, as it is now so used. Financial and economic burdens are not peculiar to this property.

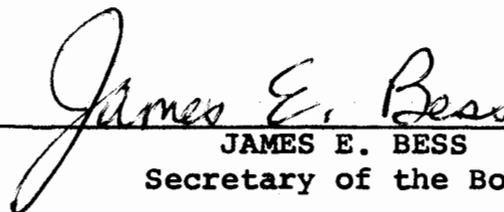
We note that many uses of property in the neighborhood were created exceptions to the Zoning Regulations granted by this Board. Such exceptions may be granted because in the wisdom of the Zoning Commission the uses will not be incompatible with the existing zoning classification. They do not have an affect upon the neighborhood but are not similar to use variances which is in the nature of a change in the zoning classification. Although this Board is in sympathy with the position in which appellant finds herself the matter is one which should properly be before the Zoning Commission for relief.

We hold that a variance from the use provisions of the R-3 District to permit professional offices would be contrary to the intent and purpose of the Zoning Regulations and map. Such a change, if it is to come, must come from the Zoning Commission, not from this Board.

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

ATTESTED:

By: _____



JAMES E. BESS

Secretary of the Board