

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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SPECIAL PUBLIC MEETING

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WEDNESDAY,

DECEMBER 15, 1999

The Special Public Meeting convened in Room 220 South, 441 4th Street, NW, Washington, D.C., 20001, pursuant to notice, at 9:00 a.m., Robert N. Sockwell, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

ROBERT N. SOCKWELL	Chairperson pro tem
JERRY H. GILREATH	Board Member

ZONING COMMISSION MEMBER PRESENT:

KWASI HOLMAN	Commissioner
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OFFICE OF ZONING STAFF PRESENT:

Beverly Bailey	Zoning Specialist
Paul Hart	Office of Zoning
John Nyarku	Zoning Specialist
Sheri Pruitt	Secretary, BZA

P-R-O-C-E-E-D-I-N-G-S

(9:40 a.m.)

1  
2  
3 CHAIRMAN SOCKWELL: Good morning. We are calling  
4 the meeting to order.

5 MS. PRUITT: Good morning. Mr. Chairman, we have  
6 this morning the application of Rafael Rodriguez, Jr., number  
7 16518, for variance from the use provisions of subsection 350.4 to  
8 use premises as general office use, first through third floors, to  
9 be consistent with existing uses of the building in an R-5-D  
10 District, at 3105 Mount Pleasant Street, Northwest, Square 2595,  
11 Lot 1051.

12 This hearing was on December 8th. The Board  
13 Members present was Ms. Reid, Mr. Gilreath, Mr. Sockwell, and Mr.  
14 Holman. At that time you requested some additional information,  
15 which was a copy of the certificate of occupancy for the buildings  
16 that are located at 3103, 3105 and 3107 Mount Pleasant Street.

17 A copy of the Applicant's home occupancy permit, a  
18 diagram illustrating adjacent and nearby land uses, and an  
19 affidavit of hosting.

20 This is before you for decision today.

21 CHAIRMAN SOCKWELL: Thank you. Mr. Rodriguez, I  
22 suppose you should come forward.

23 MS. PRUITT: Mr. Sockwell, excuse me. Generally  
24 under public meetings there is no discussion.

25 CHAIRMAN SOCKWELL: Oh, there is no discussion?

1 MS. PRUITT: This is just a discussion with the  
2 Board, and you just get to hear, sir.

3 CHAIRMAN SOCKWELL: Okay. I'm sorry.

4 MS. PRUITT: Because the record is closed with the  
5 exception of what you requested.

6 CHAIRMAN SOCKWELL: All right, then. I guess you  
7 don't come forward. The documentation that's been provided  
8 includes the certificate of occupancy for a retail clothing store  
9 at 3107. That is in a Zone C-2-A.

10 It also includes a certificate of occupancy for a  
11 building at 1305, which is an R-5. It was R-5-C at the time that  
12 the certificate was issued. And that is for your property, Mr.  
13 Rodriguez. And that is a residential certificate of occupancy.

14 And then there's 3103, which is on the other side  
15 of you, that was issued in '98 for a beauty salon, first floor.  
16 And that is in the R-5 Zone.

17 The retail clothing store at 3107, as well, is a  
18 first floor only use. I had an opportunity myself to drive  
19 through the neighborhood over the weekend, and look at your  
20 property as well as the others.

21 Also, we have your home occupation permit, as well  
22 the citing which shows your location as relating to the zoning  
23 districts within the immediate vicinity.

24 Photographs of the interior of your business, and  
25 the location of your rear parking, and other vicinity photographs.

1 Do the Board Members have any particular questions  
2 regarding the submissions that we have received at this point?

3 MR. GILREATH: I think he complied with our  
4 request.

5 MS. PRUITT: Mr. Sockwell, I will tell you we have  
6 a proxy from Mrs. Reid.

7 CHAIRMAN SOCKWELL: Thank you. The application  
8 which is for a variance to establish a general office space as  
9 provided for in Section 350.4 of the Zoning Ordinance for 3105  
10 Mount Pleasant Street, Northwest, Lot 1051, Square 2595, present  
11 use, two-family flat, and office space, actually the proposed use  
12 as office space on all floors was the request.

13 The other properties that are adjacent to 3105 have  
14 a commercial use only on lower floors below the second floor. The  
15 certificates of occupancy that you provided were sufficient to  
16 qualify that those properties were effectively issued certificates  
17 of occupancy for the current uses, the beauty salon, and the other  
18 use on either side of you.

19 One of those is in the C-2-A Zone, which is  
20 separated from your property. The zoning district line apparently  
21 borders your property on one side. One the other side, which  
22 would be the east side, you are looking at a similar business in  
23 the R-5 District.

24 It is my feeling that the zoning uses that have  
25 been approved surrounding you, both in the R District and in the

1 C-2-A District, are sufficient to allow us to accept a similar use  
2 for the first floor of your building.

3 But there is no second floor use provided in either  
4 of those structures, or any other structures on that side of the  
5 street, going down quite a distance.

6 So, because your zone is more restrictive by  
7 nature, and is restricted as a residential zone, although there is  
8 a commercial use adjacent to you directly, that commercial use was  
9 limited to the first floor.

10 And I believe that we can approve, or I would  
11 suggest that we cannot approve anything other than a first floor  
12 commercial use for your building. Your building has a current  
13 certificate of occupancy issued in 1994 for two residential units.

14 One being on the first floor. The other including the second and  
15 third floors as a single unit.

16 And I believe that what would be most appropriate  
17 would be a first floor commercial use, with retention of the  
18 second and third floors as residential use, consistent with the  
19 rest of the property, or the adjacent property to your east, that  
20 is in the R-5 Zone. And consistent with the adjacent uses to the  
21 west, which are in the C-2-A Zone, immediately adjacent to and  
22 going down the street from your property.

23 MR. HOLMAN: Mr. Chairman, I just wanted to ask a  
24 question. I seem to recall during the hearing that there was some  
25 testimony that the other two properties had commercial uses in, I

1 guess basement levels, and this property did not have the same.

2 Is that your recollection?

3 CHAIRMAN SOCKWELL: My recollection is that there  
4 was testimony that there were other floors involved. The two  
5 adjacent buildings are fairly similar to the subject property.  
6 And my observation of the properties was that there is no retail  
7 use, no commercial use above the ground floor.

8 MR. HOLMAN: Okay. Thank you.

9 MR. GILREATH: Mr. Chairman, I recall last time  
10 that we were thinking about could we do a calculation of the  
11 ground floor, and you said because of the way they, I guess it was  
12 only administrator calculator that we couldn't come up with a  
13 solution.

14 If we approve the ground floor, will the zoning  
15 administrator, can he grant him a certificate of occupancy for  
16 that? Or does he go to the calculations and say, hey, we've got a  
17 problem again?

18 CHAIRMAN SOCKWELL: Well, as a home occupation, he  
19 is limited to twenty-five percent of the dwelling unit. And that  
20 twenty-five percent was in violation, based on the fact that in  
21 1994 the property was licensed as two dwelling units, one  
22 incorporating the entire first floor only, and the other  
23 incorporating the second and third floors.

24 So, the actual home occupation for the ground floor  
25 would have been limited to twenty-five percent of whatever square

1 footage existed on the ground floor, since that was a single unit.

2 Under the application, the Applicant is approaching  
3 this to have the entire first floor converted into a commercial  
4 occupancy, and actually has requested that the second and third  
5 floors as well be converted to the commercial occupancy.

6 It would probably be more relevant at some point to  
7 seek a change in zoning text and map to enlarge the C-2-A Zone to  
8 incorporate the corners, that corner of the property. But that is  
9 not before us today.

10 MR. GILREATH: What we've been in effect doing is,  
11 the home occupation arrangement or whatever that he applied for  
12 before, that would cease to be relevant. And then by granting him  
13 this variance to the ground floor, the zoning administrator then  
14 would grant that.

15 CHAIRMAN SOCKWELL: Right.

16 MR. GILREATH: Okay. Fine.

17 CHAIRMAN SOCKWELL: Yeah. He would get a  
18 commercial certificate of occupancy for the ground floor. The  
19 second and third floors would still remain a single residential  
20 unit at this time.

21 At present -- at present, there just is not, I  
22 don't believe we have the authorities to grant a less restrictive  
23 operation in his building than would normally be the case in the  
24 other buildings.

25 MR. GILREATH: Mr. Chairman, I have no problem with

1 this. I think that granting the ground floor is appropriate and  
2 suitable. Are we ready for a motion, or do we need more  
3 discussion?

4 CHAIRMAN SOCKWELL: I think staff has a --

5 MS. PRUITT: I just wanted to let you -- just note for the  
6 record, or for your information, there is a BZA case before you  
7 that is very similar, case number 14598, if you should have a copy  
8 of it, if not, I have extra copies, in which the Board granted  
9 this type of relief, in 1987.

10 MR. GILREATH: All three floors?

11 MS. PRUITT: Yes, sir.

12 MR. GILREATH: Well, we certainly would give weight  
13 to what the Boards in the past have. Or, given the particulars of  
14 this situation, that my inclination -- to stay within the  
15 reasonable context of the zoning regulation's intent, my  
16 inclination is to grant him the ground floor use.

17 CHAIRMAN SOCKWELL: The 1987 case relates to a  
18 representation that the property in question was gutted at the  
19 time of purchase. This property is an actively used two-dwelling  
20 unit property. We're not dealing with quite the same set of  
21 conditions in this particular case.

22 The conversion in the 1987 case would appear to be  
23 one under which the building would be brought back on line, as  
24 opposed to converting an existing use that is licensed and  
25 operating.

1                   Yes, sir?       Oh, you can't speak to me,  
2 unfortunately. I'm sure that you would like to respond to that.  
3 But at the present time, the existing building has an active  
4 certificate of occupancy as a residential building, and did have  
5 an active home occupation permit for the ground floor.

6                   But under the laws that govern home occupations,  
7 that is limited to twenty-five percent of the dwelling unit. And  
8 therefore, it was invalidated by the over-use of the property as a  
9 complete transition from residential to commercial use.

10                  MR. GILREATH:       I'm ready to make a motion, if  
11 we're ready to reach that point.

12                  CHAIRMAN SOCKWELL: Any questions?

13                  MR. HOLMAN: No.

14                  MR. GILREATH: Mr. Chairman, I recommend that we  
15 approve the application, but limit it to commercial use of the  
16 first floor. That I feel, given the conditions there and so  
17 forth, and the fact that the two upper floors are active  
18 residential use, and so forth, as I recall, the Applicant  
19 originally wanted the home occupancy just to use all the ground  
20 floor. He couldn't do that.

21                  So, from what we were told and so forth -- this  
22 would meet his immediate needs. And that I would suggest to the  
23 Applicant that he might seek actual zoning relief, if he wants to  
24 convert the whole building to commercial use.

25                  So, I recommend that we approve the application,

1 but limit the commercial use just to the first floor.

2 CHAIRMAN SOCKWELL: A motion has been made. Do I  
3 have a second, or discussion?

4 MR. HOLMAN: Second, and discussion. I would have  
5 preferred to extend the commercial use to the second floor as  
6 well. But I hear what the fellow Board Members are saying, and I  
7 will accede to that.

8 CHAIRMAN SOCKWELL: Yes. If I might say, the  
9 second floor and third are combined into a single unit. To  
10 increase the use to the second floor would de-stabilize the third  
11 floor portion of the unit, or de-stabilize the unit as a dwelling  
12 unit, assuming that part of its required elements are on the  
13 second, and parts would be on the third.

14 MR. HOLMAN: Fine.

15 CHAIRMAN SOCKWELL: Okay. We have a motion, and it  
16 has been seconded, to allow a commercial use on the ground floor  
17 of this property. This there seems to be no more  
18 discussion, all in favor, say aye.

19 (Ayes.)

20 CHAIRMAN SOCKWELL: Opposed?

21 (No response.)

22 CHAIRMAN SOCKWELL: Thus, staff should record the  
23 motion as having been passed by unanimous vote.

24 MS. PRUITT: Staff will record the motion made by  
25 Mr. Gilreath, seconded by Mr. Holman, and a proxy to approve also

1 by Mrs. Reid. So, it'll be four to zero.

2 CHAIRMAN SOCKWELL: Okay. Thank you. And the  
3 order should be prepared within what period of time?

4 MS. PRUITT: I believe there was no parties. I'll  
5 check the record. If that's the case, we can do a summary order.  
6 It can be out in a couple of weeks.

7 CHAIRMAN SOCKWELL: Okay. So your order would be  
8 available within a couple of weeks. And it would be perhaps  
9 advisable to consider speaking with the neighbors of your property  
10 to request a change in the zoning that would bind that little  
11 corner into the C-2-A District. It seems to be a logical response  
12 to the uses that are being put to property there. And might allow  
13 you to go forward with your more ambitious plans. Thank you.

14 That concludes the business of this meeting. And  
15 unless there's any additional discussion, then I would adjourn  
16 this meeting at this time.

17 (Whereupon, the meeting was adjourned at 9:50 a.m.)  
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