GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Andrew Altman
Director

BZA
Case No. 16608
Exhibit No. 23

DISTRICT OF COLUMBIA
OFFICE OF ZONING
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DATE: September 27, 2000

SUBJECT: BZA Application 16608 - Request for a Use Variance at 417 East Capitol Street, SE; filed by Mr. Jacques Depuy, agent for Mr. amd Mrs. Cymrot, owners.

APPLICATION

Application of Steven and Mary Ellen Cymrot (the applicant), for a **use variance** pursuant to 11 DCMR 3107.2 of the Zoning Regulations to allow retail use in an CAP/R-4 district at Lot 13 in Square 817, addressed 417 East Capitol Street, SE. The applicant proposes to operate a used bookstore in a space currently used as a doctor's office.

SUMMARY RECOMMENDATION

The Office of Planning recommends approval of the application and acceptance of the following conditions voluntarily offered by the applicant:

- The business will be operated on the basement and first floor of property;
- Hours of operation be limited to Monday through Saturday 10:00 A.M. to 6:00 P.M. and Sunday12:00 P.M. to 6:00 P.M.; and
- The number of employees will be limited to one, in additional to the owners.

BACKGROUND

The applicant is requesting a use variance to operate a used bookstore on the ground floor and basement of 417 East Capitol Street, SE. The applicant has stated that the first floor and basement have been in commercial use since the property was constructed in 1898 and have documented commercial uses back to 1953 when the first floor and basement were used as a laundry. The same space is currently occupied by a doctor's office. The second floor of this two-level row house is a rental apartment and currently occupied by residential tenants.

Board of Zoning Adjustment
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AREA DESCRIPTION

The property is located in Lot 13, Square 817, in the southeastern quadrant of the District. The neighborhood is identifiable by its predominantly residential row house development. The 400 block of East Capitol Street, SE, however, is also unique due to its long history of ground level businesses along the southeast side of the street. The applicant's submittal includes copies of certificates of occupancy that have been issued for businesses within the 400 block. Currently there is a corner grocery and an office to the east of the site and several offices to the west. Only one structure on this side of the block is exclusively residential, 405 East Capitol Street, SE.

EXISTING ZONING AND VARIANCE REQUEST

The property is zoned CAP/R-4 residential. The same zoning extends for several blocks surrounding the property.

R-4 Residential District

The R-4 zone district is designed to include those areas primarily developed with row houses for either single family use or row houses that have been converted for two or more residential units.

Capitol Interest (CAP) District

The CAP district has been particularly designed to provide land use and development controls for land that may impact the U.S. Capitol precinct and adjacent areas. This property is included in the adjacent historic residential area east of the Capitol. The application does not involve any change to the footprint, square footage or height of the building therefore it is not affected by the bulk and height requirements of the CAP district. The uses and development standards for the CAP/R-4 district are summarized in the table below.

ZONE	Matter of Right Uses	BZA Approved Uses	Height	Floor Area Ratio Max.
CAP/ R-4	Single family detached and attached, row dwellings and flats; child day care(15), health clinic, museum, church, public schools, youth care home	Group homes, private stables, community centers, parking lots, emergency facilities, rehab homes, universities, commercial antennas	40 feet	1.8

Capitol Hill Historic District

Although the property is within the Capitol Hill Historic District, the Historic Preservation Division has no review authority over zoning variances. Their authority covers exterior modifications and none are proposed as part of this application.

Variance Request
The applicant is requesting a variance pursuant to § 3107.2 of the Zoning Regulations to allow a retail use in the CAP/R-4 zone. The variance would allow a change in use of the first floor and basement from a doctor's office to a used bookstore.

The use of the property has historically been non-conforming. The businesses located there have moved from the less restrictive use as a laundry and art/antique store to the more restrictive use as an office. The BZA approved the change in use from the art/antique store to office by special exception on May 24, 1977. The current proposal would move the use from a more restrictive use (office) back to a less restrictive use (retail) and therefore requires a use variance as opposed to a special exception, as setout in §2003.

Hardship
The applicant has stated that the property is eligible for relief under §3107.2 due to the following hardship:

- The property was originally constructed for commercial activities on the basement and ground floor;
- There is no kitchen or other residential accommodations on the basement or ground floor; and
- The commercial construction is an exceptional situation and condition of the property.

COMPREHENSIVE PLAN

The Generalized Land Use Plan identifies the area as moderate density residential. The Housing objectives of the Ward 6 Plan calls for the preservation of housing and includes an action to implement that objective that reads "Curtail conversions of residential properties to commercial office use." In balance to this action, the Urban Design and Historic Features sections include action items that read "Preserve the special character of East Capitol Street" and "Preserve and enhance the historic character of East Capitol Street."

The staff feels the requested use variance is not a new conversion of residential space and the continued use of the ground level as a commercial space is not contrary to the preservation of the unique character of the street.

COMMUNITY COMMENTS

ANC 6B considered the application at their meeting of September 13, 2000 and voted to support the proposal. They reported that they do not encourage conversion of residences to commercial space but this property has historically been used for commercial offices, is within a block (400) that has historically had many small ground level businesses and the use will have a low impact on neighbors and traffic.

Capitol Hill Restoration Society voted to support the application at their meeting of September 28, 2000.

RECOMMENDATION

The Office of Planning has reviewed the application in terms of the property's zoning, the intensity of use, the character of the neighborhood and the historical use of the property. A Certificate of Occupancy was issued for a steam cleaner in 1953 (see copy of provided by applicant). The use then changed to a retail antique shop and then to a doctor's office. The staff feels that the use intensity of a used bookstore would be similar to many of the special uses permitted in the CAP/R-4 zone and similar to previous uses.

The Office of Planning recommends approval of the application and acceptance of the following conditions voluntarily offered by the applicant:

- The business will be operated on the basement and first floor of property;
- Hours of operation be limited to Monday through Saturday 10:00 A.M. to 6:00 P.M. and Sunday12:00 P.M. to 6:00 P.M.; and
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