GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

RECEIVED
D.C. OFFICE OF ZONING
2001 APR 20 PM 4:04

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Andrew Altman

DATE: April 16, 2001

SUBJECT: BZA Case # 16689 – Use Variance Request (Application of Juanita Berry)
963 14th Street, S.E.
Square 1046, Lot 19

APPLICATION-IN-BRIEF

Applicant: Juanita Berry, 1398 K Street, S. E.
Washington, D.C. 20003

Relief Sought: Use Variance to re-establish a non-conforming Retail Grocery Store, and Establish a Beauty Salon

From Section: 11 DCMR §3301.2

Relief Sought Under: §3103.2

Applicant's Justification: The applicant, Juanita Berry propose to re-establish a non-conforming use of a neighborhood grocery store, and establish a beauty salon, on the first floor of a three story structure, in a R-4 Zoned District.

OFFICE OF PLANNING RECOMMENDATION-IN-BRIEF

The Office of Planning (OP) recommends the subject application be approved.

SITE AND AREA DESCRIPTION

The subject premises are at 963 14th Street, S.E., Square 1046, Lot 19. The property is on the northwest corner of 14th Street, at the intersection of K Street, S.E. The area is bounded by Potomac Avenue to the northwest, Pennsylvania to the northeast, 15th Street

BZA
Case No. 16689
Exhibit No. 32

Board of Zoning Adjustment
District of Columbia
CASE NO.16689
EXHIBIT NO.32

to the east, L Street to the south and 13th Street to the west. Single-family row dwellings predominate most of the subject area. Most of these row dwellings are in good condition, and many reflect recent investment. There are a few multi-family structures interspersed throughout the subject area. There is a single-family structure on the east side of 14th Street, directly across from the subject property that shows signs of advanced deterioration, and is a negative reflection on the community at-large. The closest neighborhood serving retail establishments, (in proximity to the subject property) are approximately three blocks to the north, at the northeast corner of Potomac and Pennsylvania Avenues. Chamberlain Career Development Center is approximately one block northwest of the subject property.

AREA ZONING

The subject area is zoned R-4. The R–4 Districts are designed to include those areas developed primarily with row dwellings, but within which there have been a substantial number of conversions into dwellings for two (2) or more families.

APPLICANT"S PROPOSAL

The applicant, Juanita M. Berry, pursuant to 11 DCMR 3103.2, for a use variance under § 330.5 to establish a beauty salon and re-establish the discontinued retail grocery convenience store in the R-4 District at premises 963 14th Street, S.E. (first floor) (Square 1046, Lot 19).

RELATIONSHIP OF THE APPLICATION TO COMPREHENSIVE PLAN

The Comprehensive Plan Generalized Land Use Map depicts the subject area as being in the Moderate Density Residential land use category. Row houses and garden apartments are the predominant uses in this land use category. Low-density houses, (as appropriate) may also be included in this category.

REQUESTED ZONING RELIEF

Pursuant to § 3103.2 of the Zoning Regulations, the applicant is requesting a use variance from the provisions of Subsection 330.5 to use the first floor of the subject premises to establish a beauty salon and re-establish the discontinued retail grocery convenience store in the R-4 District.

AUTHORITY TO GRANT VARIANCES

11 DCMR, §3103.2 cites the D.C. code provision that authorizes the BZA to grant the requested variance "where, by reason of exceptional narrowness, shallowness or shape of a piece of property, or by reason of:

- **Exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property;**

The strict application of any regulation ... would result in:

- **Peculiar and exceptional practical difficulties to or;**
- **Exceptional and undue hardship upon the owner of the property;**

Provided, that the relief can be granted:

- **Without substantial detriment to the pubic good; and**
- **Without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map."**

DOES THE APPLICATION MEET THE VARIANCE TESTS?

- **With respect to exception narrowness, shallowness or shape of a piece of property or by reason of Exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property:**

1. No. The subject property does not meet the test. There is nothing exceptional regarding narrowness, shallowness or shape of the subject property, which would warrant unique consideration for variance purposes. It is a typical end-unit row dwelling. The property does have a slight slope to the front, but for all intent and purposes, it is consistent with the general character of properties in the R-4 zones. The dimensions of Lot 19 are 20 feet wide (18 feet required) by 90 long, which equals 1,800 square feet, the minimum standard permitted in R-4 Zone districts

2. **With respect to the strict application of the regulations resulting in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property:**

   Yes. It would cause an exceptional and undue hardship upon the owner of the property if the regulations were to be strictly enforced. There is a documented history that the first floor of the subject premise has been used as a meat market and as a retail grocery store for most of the period between 1954 and the mid 90's. The issuance of several "Certificate of Occupancy" permits by the Department of Consumer and Regulatory Affairs provides support for this assertion. According to the applicant, the first floor of the premise is specifically designed to accommodate commercial functions. It would create a hardship for the owner, if the first floor of the building had to be retrofitted to accommodate uses other than the designed use. The existing space contains one commercial freezer, (there were four) shelving in the middle of the floor and on one wall, a counter top and two commercial sinks. The proposed new space would utilize

most of these materials in the retail store or the beauty salon. A foyer would be create at the front entrance, with separate doors leading to the, the retail area at the northeast corner and another door at the beauty salon, which would consume the remaining 75% of the floor. . The re would be a Plexiglas partition that will separate the beauty salon from the retail store.

In addition to reestablishing a retail use on the first floor of the premise, the applicant proposes to introduce a beauty salon on approximately seventy five per cent of the floor. According to the applicant, the introduction of the referenced commercial uses was in response to request from the mostly older residents in the immediate community, who find it inconvenient to travel more than three blocks (across Pennsylvania Avenue, at Potomac Avenue) for neighborhood commercial services. The beauty salon would contain approximately six styling booths, two shampoo bowls, three dryer chairs and two bathrooms, one of which will be handicapped accessible. The applicant proposes a small (approximately 25 per cent of the floor) non-perishable package goods area on the north side of the floor, near the entrance.

3. **Can the requested relief be granted without substantial detriment to the pubic good; and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.**

Yes. Since the site has a history of neighborhood serving commercial uses on the first floor, to reestablish such use should not have negative impact on the community, and could happen without substantial detriment to the pubic good. Additionally, it is intent of the Comprehensive Plan, that services necessary to support the quality of life in neighborhoods, be conveniently located in proximity to each neighborhood in the District. There are no convenient retail establishments within the immediate vicinity (three block radius) of the applicants' site. Further, the applicant has the results of a petition, which express the strong support of the community, (those within two-hundred feet of the subject premise, and beyond) for the subject application.

With regards to an adequate level of parking necessary to accommodate customers of either the retail store or beauty salon, OP staff has monitored the site at various intervals and have not found the public space (14th Street& K Street) in the area of the subject site to be insufficient to handle the vehicle traffic generated by the proposed new uses.

COMMUNITY COMMENTS

According to Ms. Kalimah Abdul-Sabur, Advisory Neighborhood Commission (ANC) Single Member District 6B08, the ANC district in which the subject site is located; there is strong support in the community for both the proposed retail store and the beauty salon. Ms. Abdul-Sabur indicated that the matter was discussed before the Land Use and Planning Committee on April 3, 2001, with the applicant present. There was no clear

consensus, although there was concern expressed relating to telephones located on the south side of the property. It was the view of the Land Use and Planning Committee that the applicant should have those telephones removed, to minimize the potential for loitering and other negative behavior in the area of the phones. It is OP's position that the telephones are on public space and therefore, not the responsibility of the applicant. In order to be legally on public space, the D.C. Government Public Space Committee approved the phones. All applications for the use of public space are circulated to the appropriate ANC for comment.

OP SUMMARY RECOMMENDATIONS

It is the position of the Office of Planning that the applicant has demonstrated that the reestablishment of a small retail grocery store (non-perishable package goods only) and the introduction of a beauty salon on the first floor of premise address 963 14th Street, S.E., does meet the variance test of § 3102.3 of the Zoning Regulations The approval of the referenced uses would bring convenient neighborhood services, (especially for elderly and handicapped residents) to a community without such services within a radius of at least three blocks. OP believes that the requested variance can be granted without adverse impact on the surrounding community, or impact on the zone plan. It is therefore the recommendation of the Office of Planning that the Board of Zoning Adjustment approve the subject application.

PROPOSED CONDITIONS

The Office of Planning recommends the following conditions and time frame is required of the applicant, if the Board approves the requested variance:

1) There shall be **no** alcoholic beverages sold in the retail establishment;
2) The retail establishment shall not sell perishable goods;
3) The retail establishment shall not consume more than 25% of the subject floor;
4) The hours of operation shall be from 6AM-11PM, on weekdays and from 6AM-mednight on weekends
5) The applicant shall be required to renew the certificate of occupancy, every two years.