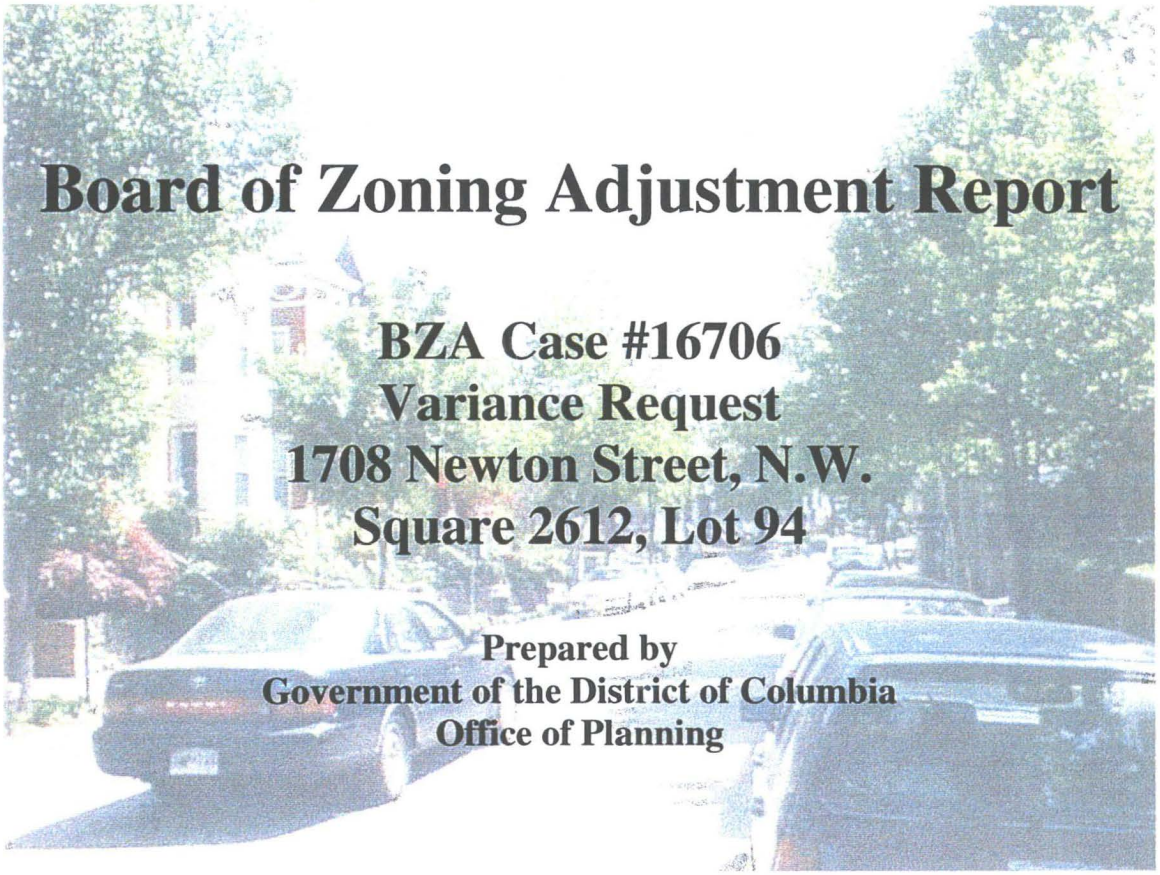


Board of Zoning Adjustment Report

BZA Case #16706
Variance Request
1708 Newton Street, N.W.
Square 2612, Lot 94

Prepared by
Government of the District of Columbia
Office of Planning

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BZA
Case No. 16706
Exhibit No. 22

Board of Zoning Adjustment
District of Columbia
CASE NO.16706
EXHIBIT NO.22

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Andrew Altman

DATE: May 29, 2001

SUBJECT: BZA Case # 16706 – Use Variance Request (Application of Massoud Heidary)
1708 Newton Street, N.W.
Square 2612 Lot 94

APPLICATION-IN-BRIEF

Applicant: Massoud Heidary way
844 Rockville Park
Rockville, Maryland 20852

Relief Sought: Use Variance to allow office space and a convenient store in an existing apartment building in the R-4 District.

From Section: 11 DCMR §3103.2

Relief Sought Under: § 330.5

OFFICE OF PLANNING RECOMMENDATION-IN-BRIEF

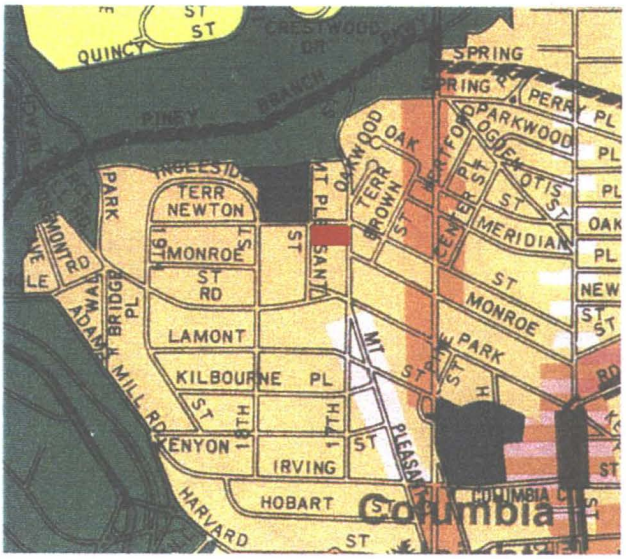
The Office of Planning recommends the subject application be denied.

Applicant's Justification:

The applicant, Massoud Heidary, is requesting a variance from the use provisions of § 3103.2, to use a portion of the first floor of the subject premises for general office purposes. The property is in the R-4 Zoned District, at 1708 Newton Street, N.W.

building on the southwest corner of 17th and Newton Streets, N.W. The structure appears to be in fair condition and exhibit signs of needed improvements.

The Mt. Pleasant Neighborhood consists of mostly row dwellings, with garden apartments concentrated on both sides of Mt. Pleasant Street, between Newton Street and Park Road and scattered on many of the other blocks in the vicinity. There are a number of large apartment buildings fronting on 16th street, Park Road, Lamont Street and 17th Street. Additionally, there are some majestic single-family homes interspersed through out the neighborhood.



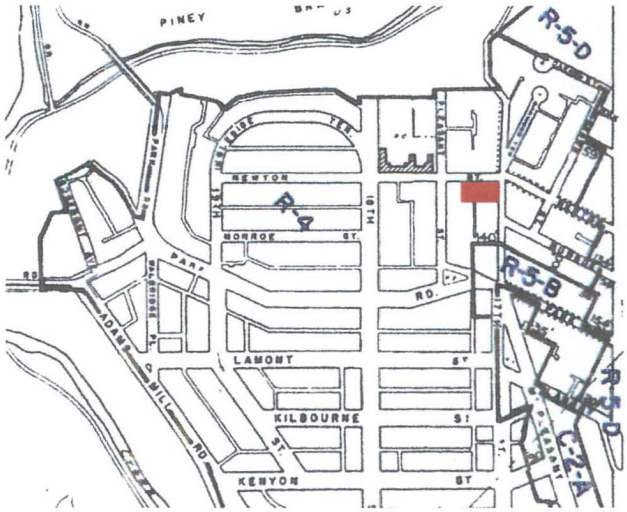
Subject site (red) and Mt. Pleasant Neighborhood Land Use.

Commercial services for the Mt. Pleasant neighborhood are concentrated on the east side of Mt. Pleasant Street, between Park Road and Lamont Street. The Brown Street Market, at the corner of Brown and Newton Streets, is one block east of the subject site.

The Sacred Heart School, on the north side of Park Road, between 16th & 17th Streets and Bancroft Elementary School, (which consume the entire north side of Newton Street between 17th & 18th Streets) are in the Mt. Pleasant Neighborhood.

AREA ZONING

The subject apartment building is in the R-4 Zoned District. The R-4 District is designed to include those areas developed primarily with row dwellings, but within which there have been a substantial number of conversions of dwellings for two are more families. The R-4 District is the dominant zoning category in the Mt. Pleasant Neighborhood. The neighborhood is complemented with a commercially zoned district (C-2-A, medium density commercial) on Mt. Pleasant Street, extending from Park Road to Irving Street. The area immediately adjacent to the Mt. Pleasant Street commercial district, (on the east) from Lamont Street to Monroe Street, between two north-south alley systems, one east of 17th Street and the other west of 16th Street is zoned R-5-B, and contains moderate density residential uses. Most of the area fronting on 16th Street, from Lamont Street to Monroe Street is zoned R-5-D, and are developed with medium-high density residential buildings.



Subject site (red) and Mt. Pleasant Neighborhood Zoning.

APPLICANT'S PROPOSAL

The subject premise is a three-story Eighteen-unit apartment building on the southwest corner of 17th and Newton Streets, N.W. The applicant is requesting a use variance to use a two-bedroom apartment on the first of the building for general office purposes. The office space would be used to manage the subject building, as well as the management office for other real estate owned by the applicant. Further, the applicant would operate an electrical contracting business from the management office unit.



Subject premise 1708 Newton Street, NW.

RELATIONSHIP OF THE APPLICATION TO THE COMPREHENSIVE PLAN

The Comprehensive Plan designates most of the area around the subject property as being in the ***Moderate Density Residential Land Use Category.*** Row houses and garden apartments are the predominant uses in this land use category. The area to the east of the subject property, along the 16th Street corridor, from just below Lamont Street, to just above Spring Road, is designated as being in the ***Medium Density Residential Land Use Category.*** Multiple-unit houses and mid-rise apartment buildings are the predominant uses in this residential land use category. There is a small ***Low Density Commercial Land Use Area*** designated in the Comprehensive Plan along Mt. Pleasant Street, from Hobart Street to Park Road.



Mt. Pleasant Neighborhood character.

REQUSTED ZONING RELIEF

Pursuant to 11 DCMR § 3103.2, the applicant is requesting a variance under subsection 330.5 to allow office space in an existing office building in the R-4 District, at premise 1708 Newton Street, N.W. (Square 2612, Lot 94).



Neighborhood Commercial SE corner Brown and Newton Street, NW.

AUTHORITY TO GRANT VARIANCES

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

1. **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:

2. **Peculiar and exceptional practical difficulties to or;**

3. **Exceptional and undue hardship upon the owner of the property;**

Provided that the relief can be granted:

- **Without substantial detriment to the public 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?

- Is the property exceptional narrow, shallow or shaped, or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of the subject property, would result in peculiar and exceptional practical difficulties to or; exceptional and undue hardship to the property owner?

No. The subject property does not meet the test. On May 1, 2001 OP and OZ staff conducted a conference call with the applicant for the purpose of clarifying the applicant's intended use of the subject property. The applicant expressed a desire to use a two-bedroom apartment on the first floor of the subject building, of the purpose of managing/supervising the building, as well as for managing other real estate he owned, and operating an electrical business from the unit. The subject property was developed for residential purposes and is in the appropriate (R-4) zone. There is no significant supporting evidence provided by the owner that supports changing the use of space designed, built and operated for residential use, to a variety of non-residential uses.

- Will the strict application of the regulations result in peculiar and exceptional practical difficulties or exceptional and undue hardship upon the owner of the property?

No. The Subject building was constructed prior to the Zoning Act of 1958 as a residential structure. It is in an area appropriately zoned, (R-4) and strictly used for moderate to medium-density residential purposes. Further, there is a shortage of low to moderate density residential units in the Mt. Pleasant neighborhood. OP can find no justification

for supporting a use change to commercial. In as much as the rest of the units are used for residential purposes, OP can find no justification for concluding that the applicant is unable to use the units proposed for office for residential purposes. Therefore, strict adherence to the zoning Regulation would not cause an undue hardship.

- Can the requested relief be granted without substantial detriment to the public good; and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the zoning Regulations and MAP?

No. To allow general office use in the subject building would violate the intent of restricting residential properties in R-4 zones from including commercial uses. The Office of Planning does not object to a small space in the building being used for accessory purposes, in support of managing the building. In fact, the applicant could have accomplished this use as a matter-of-right, in an R-4 zoned district. OP objects to the permitting of general office uses in a restricted residential zone. We further believe that to permit the requested relief, would substantially impair the intent, purpose and integrity of the zone plan.

COMMUNITY COMMENTS

Advisory Neighborhood Commission 1E, at its monthly public meeting, held on April 2, 2001, voted unanimously to oppose the variance proposed under BZA application #16706 in reference to 1708 Newton Street, N.W., due to the adverse impact such a variance would have on the neighborhood as a result of:

- The inappropriateness of the proposed use within a primarily residential area;
- The fact that the neighborhood is already more than adequately served by retail and office space;
- The addition of retail and/or office space would create additional traffic and create strains on already limited parking; and
- Most importantly, addition of the proposed commercial space will eliminate already scarce affordable housing units in Mt. Pleasant.

"Mr. Hiedary is a new owner of the building. The apartment building is in poor condition both inside and outside. The solution is not to make a commercial use in the building. There needs to be an effective trash room inside the building. If he does not do what is right, he will not be respected by the community."

OP SUMMARY RECOMMENDATIONS

The Office of Planning, after having reviewed the application submitted by Massoud Heidary, (pursuant to 11 DCMR § 3103.2 for a use variance under subsection 330.5, to allow general office use in an apartment building in the R-4 District) recommends that the Board of Zoning Adjustment deny the application.