Mr. Clouser:

I move that the following Order be entered:

ORDERED:

That the appeal of Estella M. St. Clair to change a nonconforming use f a photo sutdio to a coin-operated self-service laundry ~~xxkk~~ at 131 - 15th Street, N. E., lot 801, square 1969, be granted for the following reasons and subject to t conditions hereinafter set forth:

(1) As the result of an inspection of the property by the Board, and from the records and the evidence adduced at the hearing, the Board finds that the new use will provide a neighborhood facility and further, that the new use will not affedt adversely the present character or future development of the neighborhood in accor dance with these regulations and the Comprehensive Plan for the Distridt of Columb

(2) There was no objection to the granting of this appeal registered at the public hearing.

This Order shall be subject to the following conditions:

(a) No neon or gas tube displays shall be located on the outside of the building, nor shall any such displays, if placed inside the building, be visible from the outside of the structure.

(b) The operation shall be limited to not more than 20 machines.

(c) Hours of operation shall be from 7:00 a. m. until 11:00 p. m. seven days a week. The closing hourshall mean that the doors shall be closed at thattime and applicant shall post conspicuously the closing hour.

The Board reserves the right to direct revocation of this occupancy permit upon a proper showing that any terms or conditions of this Order have been violated

Mr. Schwab: I second the motion. Motion unanimously carried.

BZA
Case No. 17100
Exhibit No. 29

Board of Zoning Adjustment
District of Columbia
CASE NO. 17100
EXHIBIT NO. 29

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 14264, of John and LaVerne Walker, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 7106.11 to change a nonconforming use from retail grocery store, patent medicine, first floor (premises No. 129), automatic coin laundry, twenty machines (premises No. 131) to beauty parlor, first floor, in an R-4 District at premises 129-131 15th Street, N.E., (Square 1069, Lot 801).

HEARING DATE: March 20, 1985
DECISION DATE: March 20, 1985 (Bench Decision)

FINDINGS OF FACT:

1. The subject site is located on the east side of 15th Street just south of 15th Street's intersection with Constitution Avenue and is known as premises 129-131 15th Street, N.E. It is in an R-4 District.

2. The subject site is rectangular in shape. It has a twenty-five foot frontage on 15th Street. Its depth measures eighty feet. The site consists of 2,000 square feet of land area.

3. The site is improved with two one-story masonry buildings. Both have store front windows and entrances. The buildings are in a state of disrepair.

4. To the north of the site are the rear yards of row dwellings fronting on Constitution Avenue in the R-4 District. Across Constitution Avenue there is a small nonconforming grocery store in the R-4 District. To the east is the center of Square 1069, zoned R-4. The center of the square is accessed by bisecting alleys and is littered with trash piles and abandoned automobiles. To the south abutting the site, there is a store front church, followed by row dwellings in the R-4 District. The site is located in Ward 6 in the Capitol East neighborhood area. The site is located two blocks north of the Car Barn residential development on East Capitol Street to the south, and several blocks west of R.F.K. Stadium. The site has no alley access.

5. The applicants are requesting permission to operate a beauty salon at the subject premises. If approved

by the Board, the beauty salon will replace a now defunct grocery store and a twenty machine coin laundry.

6. Paragraph 7106.11 provides that a nonconforming use may be changed to a use which is permitted as a matter-of-right in the most restrictive district in which the existing nonconforming use is permitted as a matter-of-right, provided that:

A. The proposed use will not adversely affect the present character or future development of the surrounding area in accordance with the Zoning Regulations. The surrounding area encompasses the existing uses and structures within at least 300 feet in all directions from the nonconforming use.

B. The proposed use will not create any deleterious external effects, including but not limited to noise, traffic, parking and loading considerations, illumination, vibration, odor, and design and siting effects.

C. In Residential Districts, the proposed use shall be either a dwelling, flat, apartment house or a neighborhood facility.

D. The Board may require the provision of or direct changes, modifications, or amendments to any design, plan, screening, landscaping, type of lighting, nature of any sign, pedestrian or vehicular access, parking and loading, hours of operation, or any other restriction or safeguard it may deem necessary to protect the value, utilization, or enjoyment of property in the neighborhood.

7. A beauty salon, grocery store and laundry, not exceeding 2,500 square feet, are all first permitted as a matter-of-right in a C-1 District.

8. The applicants originally stated the hours of operation to be from 9:00 A.M. to 6:00 P.M., Monday through Saturday. After discussion with the Board and the Office of Planning at the public hearing, the applicants revised the hours of operation to be from 9:00 A.M. to 9:00 P.M. This would enable the beauty parlor to serve customers on their way home from work.

9. The number of employees will not exceed six, one of whom is the applicant.

10. The beauty salon will consist of six styling chairs, four dryers and four shampoo stations. There will be no noise creating appliances.

11. Most of the clients will arrive by foot. There is a bus stop in front of the salon on 15th Street. There is a Metrorail station approximately four blocks west of the site. Restricted two hour on-street parking is available to any clients using an auto.

12. The proposed use will not adversely affect the present character or future development of the surrounding area. The existing properties, built circa 1936, appear to have been built originally for commercial purposes. The premises are one story in height and have commercially designed store front display windows and entrances. City records show that the property was zoned commercial having a sixty foot height limitation prior to the adoption of the 1958 Zoning Regulations.

13. The subject premises are an eyesore in the neighborhood. The premises will be renovated entirely.

14. Because the site is in an area where residential uses are in close proximity, the use of lights that result in glare onto the streets is inappropriate. After discussion with the Board, the applicants agreed that any lighting visible from the street would be from incandescent fixtures only.

15. As part of the renovation of the building, the applicants will remove all of the existing signs on the building. Any new signs will either consist of names on the awning or non-illuminated signs.

16. The proposed use is a neighborhood facility providing personal services for the day to day needs of a small tributary area.

17. The Office of Planning (OP), by report dated March 14, 1985, recommended approval of the application. The OP was of the opinion that the application met the test established for approval of a special exception for a change of nonconforming use. In OP's view, the use would serve as a neighborhood facility and its operation would not be objectionable to the surrounding area. The unboarding and upgrading of this property should be viewed as a relief from its present derelict and endangering condition. The Board concurs with the reasoning and recommendation of the OP.

18. Advisory Neighborhood Commission 6A, by letter dated March 8, 1985, reported that the ANC voted unanimously to approve the application. It was the ANC's opinion that the beauty shop would be less detrimental to the neighborhood than the previous uses. The ANC was of the opinion that it was not likely that there would be any neighborhood impact. The establishment would be owner/occupied and maintained. Most participants would arrive on foot. The

property lies within the Historic District. The applicants have superior, compatible renovation plans and drawings. If the applicants do not receive special exception relief, a neighborhood eyesore could remain as such.

19. The Board is required by statute to give "great weight" to the issues and concerns of the ANC reduced to writing in the form of a resolution. The Board concurs with the reasoning and recommendation of the ANC.

20. The Capitol Hill Restoration Society (CHRS), by letter dated March 18, 1985, reported that at its membership meeting on March 11, 1985, the CHRS voted unanimously to support the application as stated. The CHRS reported that the history of these one-story structures has been one of commercial use since they were originally built. This nonconforming use change is to one that is a neighborhood facility which is a less intense use than the previous use. This proposed use will not tend to affect adversely the use of neighboring property but will, in fact, enhance the neighborhood. The Society welcomed the applicants as business people in the Capitol Hill area. The Board concurs with the recommendation of the CHRS.

21. There was no opposition at the public hearing or of record.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicants are seeking a special exception, the granting of which requires a showing through substantial evidence that the applicants have complied with the requirements of Paragraph 7106.11 and that the relief requested under Sub-section 8207.2 can be granted as in harmony with the general purpose and intent of the Zoning Regulations and will not tend to affect adversely the use of neighboring property. The Board concludes that the applicants have met the burden of proof. The proposed use is designed to provide convenient retail service for the day-to-day needs of a small tributary area, with a minimum impact upon surrounding residential development. The proposed use is permitted as a matter-of-right in the most restrictive district which the previous use is permitted as a matter-of-right. The Board concludes that the proposed use constitutes a neighborhood facility which will not adversely affect the present character or future development of the area. The Board concludes that it has accorded to the ANC the "great weight" to which it is entitled. Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:

1. The number of employees of the facility shall not exceed six.

2. The number of styling chairs or beauty stations in the subject facility shall not exceed six.

3. All interior lighting that is visible from the street shall consist of incandescent fixtures.

4. The hours of operation shall not exceed from 9:00 A.M. to 9:00 P.M., Monday through Saturday.

5. Any signage used to advertise the premises shall be non-illuminated.

VOTE: 4-0 (Lindsley Williams, Charles R. Norris, William F. McIntosh and Carrie L. Thornhill to grant; Douglas J. Patton not present, not voting).

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

ATTESTED BY: Steven E. Sher
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 15 MAY 1985

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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