

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 15908 of the Laurent Colliere Trust, pursuant to 11 DCMR 3107.2, for a variance from the use provisions of an accessory building (Subsection 351.1) to extend the principle apartment use of the subject premises to an accessory carriage house in an R-5-B District at premises 1621 S Street, N.W. (Square 177, Lot 60).

HEARING DATE: February 9, 1994  
DECISION DATE: March 2, 1994

ORDER

SUMMARY OF EVIDENCE OF RECORD:

1. The subject site is located at 1621 S Street, N.W. on the north side of the street between 17th and 16th Streets. The site is located within the boundaries of the Dupont Circle Historic District and it is zoned R-5-B.

2. The site is rectangularly shaped and consists of 2,100 square feet of land area. It has a 21-foot frontage on S Street. A 10-foot wide public alley provides access to the rear of the site. The site is improved with a three-story, plus basement, apartment building and a two-story, two bedroom carriage house.

3. The three-story plus basement apartment building is located at the front of the property and consists of two one-bedroom units on the first floor and in the basement and one two-bedroom unit on the second and third floors. The two-story carriage house, located at the rear of the property, is currently vacant. The carriage house contains a bedroom, a living room, a bathroom and a kitchen on the upper level, and it contains a bedroom and a two-car garage on the lower level. The garage is accessed from the abutting alley to the north (rear).

4. The applicant proposes to use the carriage house as a two-bedroom apartment unit and a two-car garage, thereby, extending the principal apartment use of the subject premises to the accessory carriage house. The carriage house contains approximately 773 square feet of floor space and is currently unoccupied.

5. The R-5-B District permits matter of right development of general residential uses including single-family dwellings, flats, and apartments to a maximum floor area ratio of 1.8, and a maximum height of 60 feet.

6. The applicant through counsel testified that the carriage house was renovated in 1989 by the previous owner of the property and was rented to a tenant as a two-bedroom apartment unit from 1990 to 1992. In 1992, the previous owner Mr. Laurient Colliere died and the property was passed to a Trust (the Laurient Colliere Trust) which is the applicant in this case. The applicant further testified that the 1989 renovation of the carriage house had taken place without the proper zoning approval and building permits. The applicant indicated that the previous owner was not aware of the need for proper permits to renovate and rent the carriage house as an apartment unit.

7. The applicant stated that the property was purchased for \$613,000 and that according to financial records of the past two years the rental income from the three-unit apartment building alone have not been sufficient to cover expenses related to the property. Even with the rental income that would be derived from the carriage house, there would be a very marginal return on the property. The applicant maintained that the inability to rent the carriage house will cause the owner to incur continuing significant economic loss.

8. The Office of Planning (OP), by a memorandum dated February 2, 1994 and by testimony at the hearing, recommended denial of the subject application. The OP stated that the economic hardship that the applicant indicated exists at the premises is self-imposed. Moreover, there are no physical constraints associated with the site that create an undue hardship for the applicant. The OP further stated that the carriage house cannot be used as a dwelling unit as proposed by the applicant because the building cannot meet residential zoning requirements. Thus, the proposed project would cause substantial detriment to the public good and it would impair the intent, purpose and integrity of the Zoning Regulations and Map.

9. The Advisory Neighborhood Commission (ANC) 1C filed no report on the application and did not appear at the hearing to testify.

10. There were no parties in support or in opposition to the application at the hearing.

11. The Board, at the end of the public hearing left the record open to receive the report of ANC-1C, and any proposed findings that the applicant may wish to submit. However, neither the applicant nor the ANC 1C submitted additional documents to the record after the hearing.

FINDINGS OF FACT:

Based on the evidence of record, the Board finds the following:

1. The fact that the applicant could obtain a better return on investment for the property by using the carriage house as a rental unit is no grounds to support a use variance.
2. The economic hardship that the applicant indicated existed on the property is self-imposed.
3. The Advisory Neighborhood Commission 1C did not submit a report.

CONCLUSIONS OF LAW AND OPINION

Based on the findings of fact and the evidence of record, the Board concludes that the applicants is seeking a use variance, the granting of which requires a showing through substantial evidence of an undue hardship upon the owner arising out of some unique or exceptional condition in the property so that the property cannot reasonably be used for the purpose for which it is zoned. The Board must further find that the relief requested 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 Maps.

The Board concludes that the applicant has not provided sufficient proof to establish an undue hardship inherent in the property. The applicant's problem in not getting a good return on investment for the property do not constitute an undue hardship in the sense defined by the Zoning Regulations. Such hardship must be inherent in the physical characteristic of the site, so that it can not be used in a manner that is consistent with the Zoning Regulations.

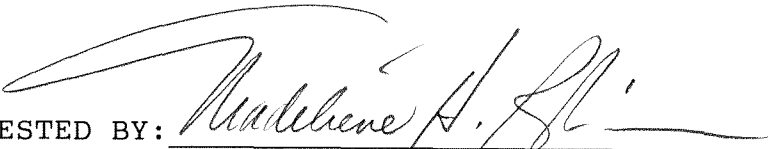
The Board concludes that the requested use variance to extend the principal apartment use of the subject premises to an accessory carriage house cannot be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zone Plan. Accordingly, it is hereby **ORDERED** that the application be **DENIED**.

VOTE: 3-0 (Craig Ellis, George Evans and Laura M. Richards to deny;  
Angel F. Clarens not voting, not having heard the case).

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

ATTESTED BY:

  
MADELIENE H. ROBINSON  
DIRECTOR

FINAL DATE OF ORDER     AUG 25 1995    

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENMTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

ORD15908/ET/CT

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



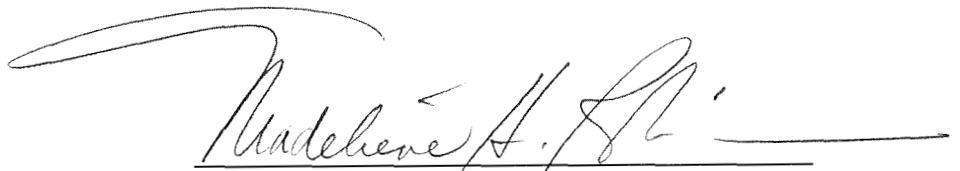
BZA APPLICATION NO. 15908

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on AUG 25 1995 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Edward L. Neveleff  
1008 Pennsylvania Avenue, S.E.  
Washington, D.C. 20003

Laurent Colliere Trust  
c/o Ms. Viviane G. Durell, Trustee  
706 Belgrove Road  
McLean, Virginia 22101

Peter Pruitt-Williams, Chairperson  
Advisory Neighborhood Commission 1C  
1802 Vernon Street, N.W., First Floor  
Washington, D.C. 20009

  
MADELIENE H. ROBINSON  
Director

DATE: AUG 25 1995

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Appeal No. 15909 of the Western Presbyterian Church, pursuant to 11 DCMR 3105.1 and 3200.2, from the decision of Joseph F. Bottner, Zoning Administrator made on September 3, 1993, to the effect that a variance must be obtained to provide food for the homeless on that portion of the premises located in the SP-2 District for a church in R-5-D and SP-2 Districts at premises 2401 Virginia Avenue, N.W. (Square 31, Lot 28).

HEARING DATES: January 19 and February 2, 1994  
DECISION DATE: March 2, 1994

DISPOSITION: The Board DENIED the appeal by a vote of 4-0 (Angel F. Clarens, George Evans, Laura M. Richards and Maybelle Taylor Bennett to deny; Craig Ellis not voting, not having heard the case).

FINAL DATE OF ORDER: April 21, 1994

WITHDRAWAL ORDER

At its public meeting of March 2, 1994, the Board of Zoning Adjustment (BZA) denied the subject appeal and upheld the decision of the Zoning Administrator. Subsequent to the Board's public meeting and prior to the issuance of the final decision on the case on April 21, 1994, the appellant, Western Presbyterian Church et al., filed a complaint for declaratory and injunctive relief with the U.S. District Court for the District of Columbia. By memorandum order filed on April 15, 1994, the U.S. District Court granted a preliminary injunction and ordered that for the duration of the litigation, the District of Columbia, the Board of Zoning Adjustment of the District of Columbia, and the Department of Consumer and Regulatory Affairs of the District of Columbia, their officers, agents, servants, employees, and attorneys and those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise, be enjoined from enforcing the September 3, 1993 decision of the District of Columbia Zoning Administrator, the March 2, 1994 decision of the BZA and the District of Columbia Zoning Regulations to the extent those regulations interfere with the plaintiffs administering their program for providing food and substance to the poor, homeless and needy or otherwise inhibit the operation of the Western Presbyterian Church's homeless feeding program at 2401 Virginia Avenue, N.W., Washington, D.C., so long as such program is carried out in an appropriate and orderly manner and does not constitute nuisance.

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