Before the Board of Zoning Adjustment, D.C.

PUBLIC HEARING - January 13, 1971

Appeal No. 10652 Fulton R. Gruver, appellant.

THE ZONING ADMINISTRATOR OF THE DISTRICT OF COLUMBIA, appellee.

On motion duly made, seconded and unanimously carried, the following Order of the Board was entered at the meeting of January 19, 1971.

EFFECTIVE DATE OF ORDER - Feb. 26, 1971

ORDERED:

That the appeal for variance from the side yard requirements of the R-2 District for existing house on Lot 46 and variance of Section 1302 to permit subdivision of remainder of property for single family rowhouses at southwest corner of 39th and Livingston Streets, NW., Lots 46-48,802,803,50, Square 1749, be partially granted.

FINDINGS OF FACT:

1. The subject property is located in an R-2 District.

2. A portion of the property is improved with a two-story single family dwelling (Lot 46) and the remainder of the property is unimproved with the exception of Lot 48 which has a frame garage and a one story frame structure.

3. The appellant proposes to subdivide Lots 47,48,802, 803 and 50 into 20 foot lots in order to construct six single family row houses (See BZA Exhibit No. 2A). The appellant also proposes in the subdivision to enlarge the side yard of Lot 46 from 5'5" to 7 ft. which would include part of Lot 47 (See BZA Exhibit No. 2A).

4. The appellant alleged that the side yard variance for Lot 46 is necessary for the existing addition of the existing structure which projects onto part of Lot 47.

5. The appellant at the public hearing acknowledged after questions by the Board that he could subdivide the remainder of the property into four (4) legal size lots without Board action.

6. Opposition to the granting of this appeal was registered at the public hearing.

OPINION:

We are of the opinion that the appellant has proven a hardship within the meaning of the variance clause of the Zoning Regulations as to Lot 46 and that a denial of the requested relief will result in peculiar and exceptional practical difficulties and undue hardship upon the owner.

Further, we hold that the requested relief can be granted without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

However, we must hold that appellant has failed to prove a hardship within the meaning of the variance cluase with regard to the proposed subdivision of the remainder of the property involved. This portion of the appeal is therefore DENIED.

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

ATTESTED:

By: _____
PATRICK E. KELLY
Secretary of the Board

THAT THE ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS ONLY UNLESS APPLICATION FOR A BUILDING AND/OR OCCUPANCY PERMIT IS FILED WITH THE DIRECTOR OF INSPECTIONS WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER.