

Before the Board of Zoning Adjustment, D.C.

PUBLIC HEARING - February 9, 1972

Appeal No. 11048 Thompson Dairy, Inc., 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 February 15, 1972.

ORDERED:

That the appeal for variance from the R-4 District to permit auto repair and body shop at rear of 3008 Sherman Avenue, NW., Lots 826 and 828, Square 2851, be DENIED.

FINDINGS OF FACT:

1. The subject property is located in a R-4 District.
2. The property was previously used as a parking lot for trucks of the Thompson Dairy which also contains a one story brick building with partition walls in the interior with alley passageway all around.
3. The appellant stated that he is requesting a variance in order to be able to rent the subject property for the use which they have had for many years, that of repairing trucks and for storage.
4. Appellant stated that they have tried to sell this property for 5 1/2 months and the only interest that they received is by people who want to establish truck repair and body repair.
5. Appellant stated that they could not find the permit to occupy the building as a truck repair shop although they have been operating for many, many years and the district could not find the occupancy permit either, thereby, forcing them to request for this variance.
6. There was considerable neighborhood opposition to the granting of this appeal. The opposition was based upon the following:

- "1. There would be conflict of commercialism in a residential area consisting of people who have already bought homes, which are a significant many; those who are buying; and even those who are renting.
2. This is a high crime area already with little or not protection for women and children as well as men. Many people living in this block have been victims countless times of house breakings, muggings, pocketbook-snatching, robberies and assaults.
3. Many of the small children in the area in the alley for lack of other suitable play areas and they would be threatened by traffic going to the shop or possible harm from the equipment in the shop."

OPINION:

We are of the opinion that appellant has not proven a hardship within the meaning of the variance clause of the Zoning Regulations 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 cannot 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.

This case is a use variance which seeks to put an auto repair body and fender shop in an R-4 area. It would be a most unusual situation and circumstance would the Board permit this type of variance. This type of variance which the Board does not feel that occurs in this case.

Appeal No. 11048

June 6, 1972

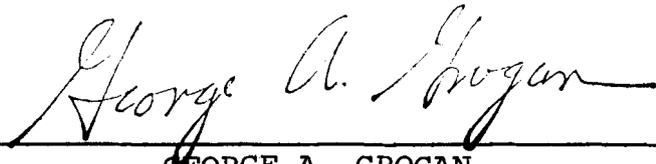
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The Board is cognizant that its rules of procedure at the time of the hearing on this matter did not specifically provide for cross-examination but that there was no specific request for an opportunity to cross-examine made or denied. If any person participating in this proceeding believes that he has been prejudiced by the lack of an opportunity to cross-examine, the Board is disposed to entertain a motion to re-open this case to permit cross-examination. Such a motion should be made within fifteen (15) days from the date of this final decision. The motion should identify the witnesses to be cross-examined, as well as that portion of his testimony to be subjected to cross-examination. Specific reference to the transcript of proceedings will be helpful. Copies of the transcript are available for inspection by the public in the Offices of the Zoning Commission, District Building, Room 11A, 14th and E Streets, NW. between 8:15 a.m. and 4:45 p.m. The motion should be forwarded to the Board in care of this address. The motion should also be served upon all other persons appearing in the proceedings. Opposition to the motion should be filed and served on all other persons to the proceeding no later than five (5) calendar days after receipt of the motion.

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

ATTESTED:

By:

  
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GEORGE A. GROGAN  
Secretary of the Board