

Before the Board of Zoning Adjustment, D. C.

Application No. 11276 Thomas J. Gaulder, pursuant to Sections 8207.11 and 3101.49 of the Zoning Regulations for a use variance and a special exception has now been disposed of.

The above application was initially heard on: February 21, 1973

Hearing Date: Reheard on June 20, 1973

Executive Session: June 26, 1973

FINDINGS OF FACT:

1. The property is located in an R-1-B District.
2. The Zoning Regulations do not permit halfway houses in the R-1 District. Halfway houses are first permitted in the R-4 Districts.
3. The property is improved by a three story brick structure currently utilized as a residential facility for mentally restored deaf persons.
4. The proposed facility will serve persons who have been released from St. Elizabeth's Hospital. Counseling and rehabilitation for the deaf persons is then followed up at the proposed center.
5. The applicant National Health-Care Foundation for the Deaf is a non-profit institution determined tax exempt from Federal Income tax provisions.
6. The National Capitol Planning Commission submitted a report in which they offered no objection to the establishment of the proposed rooming and boarding house for the rehabilitation of deaf persons.
7. The record is vague as to the exact financial structure of the proposed facility.
8. The Board cannot approve a request for a special exception without a finding that the applicant is an eleemosynary institution. Nor can it grant a variance from the prohibition against halfway houses in the R-1 District without a showing that the property cannot be utilized in conformance with its zoning.
9. Opposition as well as support was registered at the public hearing and many petitions against the application were submitted to the file.

Before the Board of Zoning Adjustment, D. C.

PUBLIC HEARING - February 21, 1973

Application No. 11276 - National Health Care Foundation for the Deaf, Inc.
appellant

THE ZONING ADMINISTRATOR OF THE DISTRICT OF COLUMBIA, appellee.

On motion duly made, seconded and carried by a vote of 3-0, the following Order of the Board was entered at the meeting of March 20, 1973.

DECISION:

That the application for variance from provisions of R-1-B District to permit establishment of rooming and boarding house with counseling and rehabilitation for deaf persons located at 4600 16th Street, N. W., lot 1, Square 2552, be DENIED.

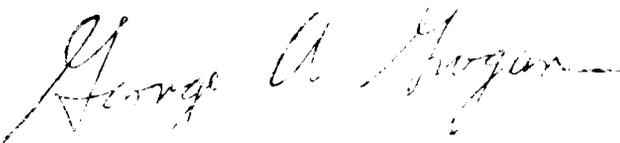
The Board heard the application herein on February 21, 1973, pursuant to two sections of the regulations, 3101.49 and 8207.11. The applicant waived his hearing rights under the Section 3101.49, philanthropic or eleemosynary institution, before the Board. Therefore the Board was not obliged to hear applicant move forward in accordance with that Section.

The applicant, having pleaded in the alternative, then proceeded to proffer evidence pursuant to Section 8207.11, the use variance clause. The Board subsequently denied the case from the bench for lack of substantial evidence which would warrant relief in the form of a variance.

To merit a use variance the applicant must first demonstrate to this Board's satisfaction that the use proposed is compatible with the area as it is zoned, R-1-B, single family detached homes. It was our immediate opinion that applicant was unable to meet the burden and thus we had no choice but to fulfill the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

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

ATTESTED



By: _____

GEORGE A. GROGAN
Secretary to the Board

April 9, 1973

10. The opposition was centered around the concern for maintenance of the R-1-B District as a stable single family neighborhood.

CONCLUSIONS OF LAW

We are of the opinion that applicant, pursuant to Section 8207.11 of the Zoning Regulations, has failed to demonstrate that the property by reason of exceptional narrowness, shallowness or shape of this specific piece of property or by reason of exceptional topographical conditions or other extra-ordinary or exceptional situation or condition of this specific piece of property is burdened with a hardship. There is no justification for relief in the form of a use variance.

Nor has applicant demonstrated to the Board's satisfaction that the financial structure of the proposed facility would qualify it as an eleemosynary institution. We conclude that it is possible to have a halfway house that is primarily supported by private contributions and thus similar to an eleemosynary institution.

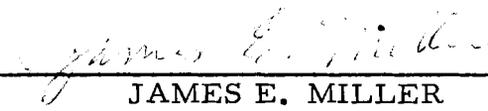
Further, we conclude that the nature and use of this proposed use places the facility within the definition of a halfway house and therefore prohibited in the R-1-B District.

ORDERED:

The Board Orders that the above application be DENIED.
VOTE: 4-0 Lilla Burt Cummings, Esq. not voting

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

ATTESTED:

By 
JAMES E. MILLER
Secretary of the Board

FINAL DATE OF ORDER: