

Before the Board of Zoning Adjustment, D. C.

Application No. 11426, of Louis Bojan pursuant to Sections 8207.2 and 8207.1 of the Zoning Regulations for a special exception to construct row houses in a R-5-A District as provided by Section 3105.42 of the regulations and variances from the F.A.R., and lot area requirements of Sections 3302.1 and 3301.1 of the Regulations in a R-5-A Zone located at Bonini Road, S.E., Parcel 238, 32, Square 6250.

PUBLIC HEARING: August 29, 1973

EXECUTIVE SESSION: September 11, 1973

FINDINGS OF FACT:

1. The report submitted by the D. C. Board of Education as required by the regulations establishes the fact that existing and planned area schools are able to accommodate numbers of students that will reside in the proposed project.
2. The reports submitted as required by the Regulations, by the Department of Highways and Traffic, the Assistant to the Mayor for Housing Programs and the National Capitol Planning Commission recommend the approval of proposed development.
3. The report submitted by the Zoning Commission Planning Staff as required by the Regulations, recommends approval of the proposed development.
4. The applicant requests a variance from the R-5-A lot area requirements to allow him to build on 1685 square feet as compared to the 1800 square feet lot area requirement.
5. The Board finds that the property upon which the proposed development is to be built, can be subdivided into a 1800 square feet lot.
6. The applicant bases his hardship on the fact that the Department of Highways and Traffic required him to increase the width of the street running through the proposed development to 33 feet as required by law.
7. The advantage which would accrue to the applicant by the granting of the requested variance would be the ability to construct an additional house on the property.
8. There was no opposition registered,

CONCLUSIONS OF LAW:

Based upon the above findings of fact, the Board is of the opinion that the special exception should be GRANTED. Reports and comments have been received by all agencies to whom the request was referred, and recommended by all.

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With respect to the applicant's request for a variance, the Board is of the opinion that the applicant has not established a hardship within the meaning of Section 8207.11 of the Regulations. The findings of fact indicate that the evidence of hardship or practical difficulty preferred by the applicant relate to a financial loss if the regulations are strictly applied. This loss would be a result of the applicant not being able to build as many buildings on the site as he proposes. The Board must use the standards of proof of hardship as set forth in *Palmer v. Board of Zoning Adjustment*, D. C. App., 287 A. 2d 535 (1972) which defines a hardship as a circumstance that uniquely affects an applicant's property. The Board recommends that the applicant re-apply under Section 3307 of the Regulations for the request denied as a variance.

ORDERED:

That the above application for a special exception be GRANTED, and the request for a variance be DENIED.

VOTE: 3-2 (McIntosh and Harps dissenting).

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

ATTESTED BY: _____



JAMES E. MILLER
Assistant Secretary
for the Board

FINAL DATE OF THIS ORDER: OCT 18 1973