

Before the Board of Zoning Adjustment, D. C.

Application No. 11648 of Rock Creek Condominiums, Inc., pursuant to Section 8207.1 of the Zoning Regulations for a variance from the use provisions of the R-4 Zone to construct a 22 unit apartment house and a variance from the side yard requirements of the R-4 Zone as provided by Section 8207.11 of the regulations at premises 3441-3483 Mt. Pleasant Street, N. W., Lots 808, 809, 109, 820, Square 2620.

HEARING DATE: June 19, 1974

EXECUTIVE SESSION: June 19, 1974 From the Bench

ORDERED AND ADJUDGED:

That the subject application be DISMISSED

FINDINGS OF FACT:

1. The applicant comes before the Board requesting the Board to grant a use variance.

2. The Board finds that the applicant knew and should have known the requirements of the R-4 Zone (Section 3104 of the regulations) which do not permit construction of apartment buildings in the R-4 Zone.

a. The applicant testified at Public Hearing that a study had been made and plans drafted for development of the subject property in accordance with R-4 regulations.

3. Mr. George Aravillas, qualified as a real property expert and presented by the applicant as a witness, under cross examination stated and the Board finds, that the price the applicant paid for the subject property was unreasonably high.

a. The applicant paid a total purchase price of approximately \$155,000 for the four lots involved in this application.

4. Mr. Aravillas called by the applicant further stated and the Board finds that the present market value of R-4 property is \$2.00 per square foot.

- a. The Board finds that the subject property is 26,570 square feet in area and that a more reasonable price would have been \$53,140 (\$2.00 x 26,570).

5. The Board finds that the applicant paid approximately three times above the fair market value for the subject property.

6. The Board finds that the subject property is presently improved with single family dwellings in conformity R-4 uses permitted by Section 3104 of the regulations.

7. The Board finds that the applicant was aware that a variance was required at the time of purchase of the subject property.

8. The attorney for the opposition moved that the applicant's case be dismissed after the applicant's case in chief, on the grounds that the applicant had not carried its burden of proving a hardship.

9. The Board finds that the applicant did not introduce evidence of any unusual condition unique to the subject property, or unique circumstance peculiar to the owner of the subject property to support the request of a variance.

OPINION AND CONCLUSIONS OF LAW:

Based upon the above finding and the record, the Board is of the opinion that the applicant purchased subject property for an unusually high price with knowledge of the fact that a variance would be required in order to construct apartments on the site.

The Board concludes that the applicant has not in presenting its case, carried the burden of proving the existence of a hardship **inherent** in either the land or the existing improvements, which **is necessary** for the granting of a use varinace as required by Section 8207.11 of the Zoning Regulations.

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

ATTESTED BY:



JAMES E. MILLER
Secretary to the Board

FINAL DATE OF ORDER: 7/31/74