

BEFORE THE BOARD OF ZONING ADJUSTMENT, D. C.

Application No. 11923, of Lawrence M. Gary, pursuant to Section 8207.1 of the Zoning Regulations for a variance from the use provisions of the R-3 zone, to permit a flat at the premises 3021 Dumbarton Street, N. W., as provided by Section 8207.11 of the regulations Lot 127, Square 1242.

HEARING DATE: June 18, 1975

DECISION DATE: June 24, 1975

FINDINGS OF FACT:

1. Applicant seeks a variance from the use provisions of the R-3 zone to permit the continued use of a flat built in 1903-04 and never was issued a certificate of occupancy pursuant to Section 8104.1 of the Zoning Regulations.

2. The subject property is a two story and cellar row dwelling located in the middle of five (5) row dwellings all used as flats.

3. Applicant proffered the following documentation for the record to establish that the structure was constructed as a flat in 1903-04 prior to the enactment of the Zoning Regulations and has continued the use to the present date:

- (a) Paragraphs 8 and 9 of the application for permit to build No. 805 dated November 3, 1903, proposes construction of buildings on Lots 125 through 129, Square 1242, each to contain two (2) family apartments.
- (b) Statements of three (3) owners of improved property within 200 feet of the subject property testifying to continued use of the premises as a flat from at least 1930 to the present date.
- (c) Statement of a previous owner of the subject premises testifying to continued use of the premises as a flat from 1957-58 through 1972.

(d) Statement of Potomac Electric Power Co. and Washington Gas Light Company testifying to the existing of two (2) separate gass and electric installations on the property.

(e) Statement of the postman serving the subject property from 1951 through 1972 testifying that the structure was a two (2) unit dwelling with separate entrances and separate mail receptacles.

4. Based upon applicant's uncontested documentation there is substantial evidence to reasonably conclude that the subject property was erected in 1903-04 for use as a flat and has continued that use to the present date.

5. There is no opposition of record to the application.

CONCLUSIONS OF LAW:

Based upon consideration of the above findings of fact and the evidence of record it is the opinion of this Board pursuant to Section 8207.11 of the Zoning Regulations that the applicant has an undue hardship resulting from the exceptional situation of the subject property.

In 1903-04 prior to enactment of the Zoning Regulations the structure was constructed as a flat. During its continued use as a flat the Zoning Regulations were enacted and the R-3 zone in which the subject property is located was established prohibiting flats as a permitted use. Applicant's property was never registered as a non-conforming use and a certificate of occupancy was never issued. The Board concludes that the flat has existed since 1903-04 without a certificate of occupancy and the Granting of this variance will have no substantial detriment to the public good and will not substantially impair the intent, purpose and integrity of the Zoning Regulations.

ORDER:

IT IS HEREBY ORDERED THAT THE ABOVE APPLICATION BE, GRANTED.

VOTE: 4-0 (Mr. Klauber not voting after not having heard the case.)

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

ATTESTED BY:

  
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JAMES E. MILLER  
Secretary to the Board

FINAL DATE OF THIS ORDER:

7/8/75

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 DEPARTMENT OF ECONOMIC DEVELOPMENT WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER.