

BEFORE THE BOARD OF ZONING ADJUSTMENT, D. C.

Application No. 11937, of Neil J. Thomas, pursuant to Sections 8207.1 and 8207.2 of the Zoning Regulations for a variance from Section 7106 of the regulations as provided by Section 8207.11 of the regulations to permit structural alterations, and a special exception as provided by Sections 7104.2 and 7109 of the regulations to permit a change of non-conforming use (Janitor's apartment and boiler room to a dwelling) at the rear of 424 11th Street, N. E., Lot 80, Square 962.

HEARING DATE: June 18, 1975

DECISION DATE: June 24, 1975

FINDINGS OF FACT:

1. Applicant proposes to change a non-conforming use (boiler house) to a single family dwelling as permitted in the R-4 zone.

2. The non-conforming use (boiler house) occupies the same lot with a four (4) unit apartment building. The boiler house was built twenty (20) years prior to the apartment to serve buildings on other lots and it is an accessory building.

3. There is a twenty-four (24) unit apartment building, four (4) or five (5) stories high located immediately south of the subject property and there are several other large apartment buildings located in the neighborhood.

4. The boiler house is vacant and has received housing code violations because of its deterioration.

5. The proposed change of non-conforming use will require no alteration to the architectural features of the building and there will be adequate ingress and egress.

6. The subject property presently as a matter of right is permitted an apartment on one (1) floor only and the proposed single family dwelling will generate no noise, increased traffic or other deleterious external effect.

7. The proposed use would allow five (5) units on the subject lot whereas only a single family dwelling or flat would be a permitted use under the current Zoning Regulations.

8. The landlords of the apartment building adjacent to the subject property filed a letter in support of the application based upon the anticipated improvement to the neighborhood. A petition in support of the application signed by owners and tenants of the neighborhood. Property similiarly bases its approval on the beneficial effect which will results to the neighborhood.

9. The Capitol Hill Restoration Society, Inc., opposed the application by letter and testimony at public hearing on the basis that the proposed use will permit five (5) units on a 3300 square foot lot where the Zoning Regulations would customarily require 4500 square feet of area. The opposition further, stated that the proposed use is overly dense and the present four (4) unit apartment building which is permitted by grandfather rights not the Zoning Regulations is a sufficient use of the subject property together with the caretaker's apartment.

CONCLUSIONS OF LAW:

Upon consideration of the above findings of fact and the evidence of record the Board concludes that the proposed change of non-conforming use to a single family dwelling is a permitted use in the residential R-4 zone and is not objectionable. Although the Board recognizes that five (5) units is a greater density than current Zoning Regulations would permit as a matter of the Board finds that the character of the neighborhood has a higher density with existing apartment buildings and there will be no adverse affect from the proposed use. The subject property has an apartment on one (1) floor as a matter of right and the change of use to a single family dwelling will create no increased traffic, noise or other deleterious external effects. Pursuant to Section 8207.2 of the Zoning Regulations the Board finds that the change of non-conforming use to a single family dwelling is in harmony with the general purpose and intent of the Zoning Regulations and there will be no adverse affect upon the use of the neighboring property.

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Applicant has also requested a variance from Section 7106 of the regulations in order to be permitted to make structural alterations to the subject property. However, pursuant to this order the non-conforming use of a boiler house is changed to the conforming use of a single family dwelling and Section 7106.13 of the regulations states repairs, alterations or modernizations including structural alterations are permitted for a non-conforming structure devoted to a conforming use. Therefore, this Board is of the opinion that the applicant has no need to seek a variance since Section 7106.13 can be complied with and the Board will not address itself to the issue of granting a variance pursuant to Section 8207.1.

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

VOTE: 3-1-0 (Lilla Burt Cummings, Esq. dissenting and Mr. Klauber not voting after not having heard the case.)

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

ATTESTED BY: James E. Miller  
JAMES E. MILLER  
Secretary to the Board

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.

FINAL DATE OF ORDER: 7/18/95