

Before the Board of Zoning Adjustment, D. C.

Application No. 12189 of William P. and Rae M. Barnhart, pursuant to Sub-section 8207.1 of the Zoning Regulations for a variance from the use provisions, Section 3103 to permit a flat in the R-3 District at the premises 2609 O Street, N. W., Square 1262, Lot 849.

HEARING DATE: October 20, 1976

DECISION DATE: October 20, 1976 (Bench Decision)

FINDINGS OF FACT:

1. The subject property is located in an R-3 District.
2. The property is improved with a two-story and basement brick structure used as a flat (two apartment units).
3. The structure has been used as a flat since its construction in 1939.
4. The applicant originally applied for a variance from the use provisions of the R-3 District and was permitted to amend the application to allow the continuation of a non-conforming use at the time of the hearing.
5. Testimony given by the Zoning Administrator established that the structure is in operation as a non-conforming use.
6. The property shall be registered with the Zoning Administrator as a non-conforming use.
7. The original zoning of Residential-40-B restrictive was changed on March 28, 1928 to Residential-40-C by the Zoning Commission. 40-C District would waive permit as a flat as a matter of right, whereas the 40-B restrictive would not have permitted a flat.
8. The Residential-40-C zoning allowed in 1928 was in effect until the 1958 rezoning plan was adopted.
9. In 1958 the subject property was rezoned to R-3 (single family row houses). The 1958 zone plan allowed certain uses established before the rezoning plan to continue their use as a non-conforming use.

10. Mrs. Eva Hinton changed her position of opposition after it was established that the subject property was in fact in operation as a non-conforming use.

11. There was no other opposition evinced at the public hearing of this case.

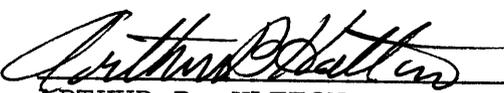
CONCLUSIONS OF LAW AND OPINION:

The Board is of the opinion that the property has been used as a flat since before the adoption of the present Zoning Regulations, and should therefore be treated as the continuation of a non-conforming use. The Board finds that the relief sought can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zone Plan as embodied in the Zoning Regulations and Map. Accordingly it is ORDERED that the application is GRANTED and applicant is directed to the Office of the Zoning Administrator to establish the continuation of such use.

VOTE:

4-0 (Lilla Burt Cummings, Esq., Dr. Walter B. Lewis, Leonard L. McCants, Esq., William F. McIntosh to grant; William S. Harps, not voting, not having heard case)

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

ATTESTED BY: 
ARTHUR B. HATTON
Executive Secretary

FINAL DATE OF ORDER: 12/14/76

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 HOUSING AND COMMUNITY DEVELOPMENT WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER.