

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 12455, of John M. Ellison, Jr., pursuant to paragraph 8207.11 of the Zoning Regulations, for a variance from the use provisions (Section 3103) to allow a flat in an R-3 District at the premises 133 Hamilton Street, N.W., (Square 3396, Lot 66).

HEARING DATE: September 21, 1977  
DECISION DATE: December 6, 1977

FINDINGS OF FACT:

1. The subject property is located at 133 Hamilton Street, N.W., and is in an R-3 District.
2. The property is improved with a two story brick dwelling with two separate apartments.
3. The dwelling is presently being used as a flat but has no Certificate of Occupancy as a flat. The applicant seeks permission to use the subject property as a flat.
4. The applicant testified that all the houses on the block are similar to the subject property and are used as flats.
5. There was evidence from the owner of the subject property that when he purchased the property in 1955 it was a flat and that it was this feature that made it an attractive business endeavor for him.
6. If the applicant had obtained a proper Certificate of Occupancy prior to May 12, 1958, or if the use had been registered within six months after May 12, 1958, the flat would be a legal non-conforming use and no action by the Board would be necessary.
7. Advisory Neighborhood Commission 4D filed no report on the application.
8. There was no opposition to the application.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the requested variance is a use variance which under the present Zoning Regulations requires a showing of a hardship. However, the premises has been continuously used as a flat since prior to May 12, 1958, the effective date of the Zoning Regulations. Granting the application would not result in the institution of a new use, nor would it increase the density in the area. Rather, it would only serve to legalize an existing use which is not non-conforming because of the failure to secure proper permits. Granting the continuation of the present use would result in the applicant being able to make reasonable use of the property that is compatible with the existing structure, not detrimental to the public good and would not impair the intent, purpose and integrity of the Zoning Regulations. Accordingly, it is ORDERED that the application is GRANTED.

VOTE: 5-0 (Charles R. Norris, Chloethiel Woodard Smith, Leonard L. McCants, John G. Parsons and William F. McIntosh to GRANT).

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

ATTESTED BY:

  
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STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER: 13 DEC 1977

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.