

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 12479 of Jim R. and Mary Karen James, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the use provisions (Sub-section 3102) to allow flats in the R-2 District at the premises 4917 and 4911 - 42nd Street, N.W. (Square 1737, Lots 80 and 51).

HEARING DATE: September 27, 1977

DECISION DATE: October 11, 1977

FINDINGS OF FACT:

1. The subject properties are located at 4917 and 4911 - 42nd Street, N.W. and are in an R-2 District.
2. The improvements are two story brick structures with full basements and are single family dwelling's.
3. Applicant seeks permission from the BZA to allow both buildings to become flats.
4. Both buildings are currently occupied as flats but have no Certificate of Occupancy for such flats.
5. The applicant testified that the subject properties are located immediately adjacent to Wisconsin Avenue, a major thoroughfare improved with commercially zoned properties and that the immediate proximity of commercial zoning and the noise, traffic and pollution of a major commercial thoroughfare course the sale or rental of the property as a single family residence to be exceptionally different.
6. The applicant further testified that he has had both houses up for sale but received no offers, that people complain about the character of the subject neighborhood and prefer to

buy elsewhere and that there were other instances where the offer of prospective purchasers would not meet the outstanding mortgage payments.

7. ANC - 3E opposed the application on the grounds that the area is zoned R-2, single family residential and flats are not permitted in R-2 districts and that the ANC has consistently opposed such changes in the neighborhood since it has an obligation to preserve the neighborhood and not change its character.

8. Friendship Neighborhood Coalition and a neighboring property owner opposed the application on the same grounds as the ANC that the granting of the variance would set a precedent which would destroy the integrity of the neighborhood and that applicant had not established a hardship as embodied in the Zoning Regulations.

CONCLUSIONS OF LAW:

Applicant is seeking a use variance, the granting of which requires the showing of a hardship stemming from the property itself. Based on the record the Board concludes that applicant has not shown such a hardship. Applicant's hardship is a financial hardship which does not satisfy the Regulations. The Board further concludes that applicant has not established that he cannot make reasonable use of the property for the purpose for which it is zoned and that the granting of the relief sought would have an adverse effect on the neighborhood with substantial detriment to the public good and would be contrary to the intent purpose and integrity of the zone plans. The Board is also of the opinion that what applicant seeks is a rezoning of the subject area, a remedy beyond the jurisdiction of the BZA. Accordingly, it is ORDERED that the application is DENIED.

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

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

ATTESTED BY: _____


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 2 NOV 1977