

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



May 4, 1979

Application No. 12505 of Claudia Moore, pursuant to Paragraph 8208.11 of the Zoning Regulations, for a variance from the minimum lot area requirements (Sub-section 3301.1) to allow a four-unit apartment house in the R-4 District at the premises 122 6th Street, N. E., (Square 839, Lot 48).

ORDER

1. By BZA Order No. 12505, dated January 25, 1978, the Board GRANTED this application.

2. The Capitol Hill Restoration Society, Inc. appealed the Order to the District of Columbia Court of Appeals.

3. By Judgement, dated February 8, 1979, the Court of Appeals REVERSED the Order of the BZA.

Accordingly, it is ORDERED that BZA Order No. 12505 is HEREBY VACATED. Pursuant to the Order of the Court, the application is DENIED, and the Zoning Regulations Division of the Dept. of Housing and Community Development is hereby requested to ensure that the present illegal use is terminated forthwith.

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



STEVEN E. SHER
Executive Director
Zoning Secretariat

FINAL DATE OF ORDER 4 MAY 1979

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 12505 of Claudia Moore, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the minimum lot area requirements (Sub-section 3301.1) to allow a four-unit apartment house in the R-4 District at the premises 122 6th Street, N.E., (Square 839, Lot 48).

HEARING DATE: November 16, 1977

DECISION DATE: January 4, 1978

FINDINGS OF FACT:

1. The subject property is located at 122 6th Street, N.E. and is in an R-4 District.
2. The area of the lot is 1,711 square feet and it is improved with a three story row house with three units.
3. Immediately adjoining the lot are three story row houses. The general neighborhood is composed of three story row houses many of which have been converted to apartments.
4. At the rear of the premises are two parking spaces with access provided by a twenty foot public alley. The Zoning Regulations require one off-street parking spaces for each three apartments units in an R-4 District, or a total of two spaces for this building.
5. By BZA Order No. 7539, dated January 6, 1964, a prior owner of the subject property was granted a variance from the 900 square feet of lot area per unit requirement (Sub-section 3301.1) to allow the subject property to be converted from a single family unit to a three unit apartment building.
6. The applicant purchased the subject property in 1973 assuming that it could be used as a four unit building. At the time of purchase all four units were occupied including the basement where the owner lived.

7. The applicant has lived in the subject property in 1967 as a tenant, she returned to visit some four years later and in both situations all four apartments were occupied.

8. There are three large one-bedroom apartments on each floor, each of which is occupied by one person.

9. The applicant proposes to convert the basement unit of the premises to a separate apartment unit. The approximate size of the proposed unit is 663 square feet. It has complete living facilities. The applicant intends to put in two more windows in the bay to increase light and ventilation.

10. Applicant occupied the basement unit until a few months ago when she was advised that there was no Certificate of Occupancy for four units but only for three.

11. Applicant testified that if the variance is granted she would move back into the property and occupy one of the apartment.

12. There was also testimony that many residences in the neighborhood with equal or smaller size lots had four units.

13. Residents of the neighborhood testified in favor of the approval of the application. There is a petition, of record of other neighbors who had no objection to the granting of the application.

14. Advisory Neighborhood Commission - 6B was on record as voting unanimously to take no position on this application.

15. The Municipal Planning Office, by report dated October 14, 1977, recommended that the application be denied since there appeared to be no practical difficulty or extraordinary condition of the premises to support the granting of the variance.

16. The Capitol Hill Restoration Society opposed the application on the grounds that the variance sought was too great and, if granted, would impair the design of the Zoning Regulations with regard to the character of an R-4 District. In addition, CHRS stated that there was no unique circumstances or conditions peculiar to the property which resulted in a practical difficulty.

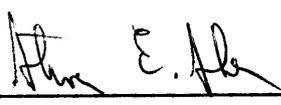
CONCLUSIONS OF LAW:

The Board is of the opinion that the particulare appli-
cation presents unique circumstances. It is also aware of the
position of the MPO and the CHRS. The subject property reflects
a history of a four unit occupancy since 1967 to date. There
is no evidence that such occupancy created any substantial
detriment to the public good. Rather the support of neighboring
residents reflects the opposite. The Board in applying its
discretion , concludes that the strict application of the re-
gulations would result in practial difficulties upon the owner
and that the variance can be granted, in this instance, without
substantially imparing the intent, purpose and integrity of the
zone plan. Accordingly, it is ORDERED that the application is
GRANTED.

VOTE: 4-0 (Chloethiel Woodard Smith, Charles R. Norris and Leonard
L. McCants to grant, Ruby B. McZier to grant of proxy,
William F. McIntosh, not voting not having heard the
case).

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

ATTESTED BY: _____


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 25 JAN 1978

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 DEVELOP-
MENT WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF
THIS ORDER.