

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 12801 of Lucius Fred Thompson, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the use provisions (Sub-section 3104.3) to permit an artist studio within a building on an alley lot in an R-4 District at the premises rear 421-23 12th Street, S.E. (Square 992, Lot 826).

HEARING DATE: November 15, 1978
DECISION DATE: December 6, 1978

FINDINGS OF FACT:

1. The subject property is located in an R-4 zone district, near the center of square 992 on an alley lot to the rear of 421-423 12th Street, S.E.
2. The subject lot contains approximately 2,588 square feet in land area and is developed with three attached red brick garage buildings which are in an L shape.
3. The three garage units on the property all have metal garage doors facing the west. The middle unit has been damaged by fire. The northern most unit is two stories high, with the other two units one story in height.
4. The property is surrounded to the north by a twelve foot wide paved alley followed by row dwellings in residential use fronting on D Street, to the east by a ten foot wide paved alley followed by the back yards of row dwellings in residential use fronting on 12th Street, to the south by a fifteen foot wide paved alley followed by a garage, and to the west by a thirty foot wide paved alley adjoined by a two story brick garage building which has been renovated and is presently used as an art gallery.

5. Although the subject property is located on a thirty foot wide public alley, the only access to public streets is by way of alleys which are a maximum of only fifteen feet wide. Sub-section 7606.2 of the Zoning Regulation states that a one-family dwelling shall not be erected or constructed on an alley lot unless the alley lot abuts an alley thirty feet or more in width and has from such alley access to a street through an alley or alleys not less than thirty feet in width. The Regulations thus prohibit residential use of the subject lot.

6. In BZA application No. 10925, by Order dated November 17, 1971, the Board denied an application for a variance on this property to allow construction of a dwelling.

7. Under Paragraph 3104.43, the only uses which the Board may approve for an alley lot in an R-4 District are parking or storage of wares and goods.

8. The applicant proposes to use the subject premises as an artist studio. Such a use would be less intense and less objectionable than either parking or storage.

9. The existing adjoining art gallery has operated without apparent adverse effect.

10. The premises will be redesigned to include restrooms and work areas on the interior. Skylights on the roof of the premises may also be included in the redesign to increase the natural light available to the working artists.

11. The applicant testified and the Board finds that the property is not suitable for use as garages, and has not been used as such since 1968.

12. The Municipal Planning Office by report dated November 7, 1978, recommended denial of the application on the grounds that residential use of the site is the most appropriate use for this property. The Board finds that the property is completely surrounded by alleys and that the applicant is prohibited under Sub-section 7606.2 of the Regulations from converting the property into residential use.

13. There was no report from Advisory Neighborhood Commission 6B on this application.

14. There were letters and petitions in support of this application from surrounding and adjoining residences.

15. There was no other opposition to the granting of this application.

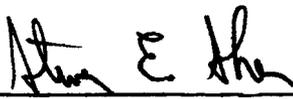
CONCLUSIONS OF LAW AND OPINION:

Based on the above Findings of Fact and the evidence of record, the Board is of the opinion that the requested variance is a use variance, the granting of which requires the showing of an undue hardship. The Board concludes that the applicant has made the required showing. The Board is cognizant of the limited uses that can be made of alley lots with alley access of less than thirty feet and concludes that the applicant cannot make reasonable use of the site for a purpose permitted in the R-4 District. The Board further is of the opinion that the granting of the requested variance would be in harmony with the intent and purpose of the Zoning Regulations. Accordingly, it is hereby ORDERED that this application is GRANTED subject to the CONDITION that the property shall not be used for residential purposes.

VOTE: 5-0 (Walter B. Lewis, William F. McIntosh, Chloethiel Woodard Smith, Charles R. Norris and Leonard L. McCants to grant)

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

ATTESTED BY: _____


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: _____

26 JAN 1979

BZA Order No. 12801

Page 4

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 EFFECTIVE DATE OF THIS ORDER.