

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 12948, of Sarem Properties, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the minimum lot area requirements (Sub-section 3301.1) to convert the subject premises to an apartment house of four units, basement, first, second and third floors, in an R-4 District at the premises 1701 Kilbourne Place, N.W.

HEARING DATE: August 22, 1979

DECISION DATE: October 3, 1979

DISPOSITION: Application DENIED by a Vote of 3-1 (Leonard L. McCants, Chloethiel Woodard Smith and Charles R. Norris to deny; Ruby B. McZier opposed; William F. McIntosh not voting, not having heard the case).

FINAL DATE OF ORDER: January 4, 1980

ORDER

The applicant filed a motion for Reconsideration of the Board's Order denying the application. The motion was not filed timely, since the final date of the Order was January 4, 1980, the motion was filed on February 29, 1980, and Section 5.41 requires the motion to be filed within ten days. However, based on the applicant's filing, the Board determined there was good cause for not filing the motion due to the applicant's illness, and waived the normal ten day rule. All parties to the application were served. Upon consideration of the Motion, the response of the parties thereto and the Order, the Board finds that the Motion fails to state specifically, the respects in which the final decision is claimed to be erroneous. The Board also finds that there is no matter in the motion that had not been considered previously by the Board. The Board concludes that it has committed no error in deciding the application. It is therefore ORDERED that the MOTION for RECONSIDERATION is DENIED.

VOTE: 4-0 (Charles R. Norris, Leonard L. McCants, Connie Fortune and William F. McIntosh to DENY).

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

ATTESTED BY: Steven E. Sher
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 21 APR 1980

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



No. 12948 - Application of Sarem Properties, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the minimum lot area requirements (Sub-section 3301.1) to convert the subject premises, to an apartment house of four units, basement, first, second and third floors, in an R-4 District at the premises 1701 Kilbourne Place, N. W., (Square 2602, Lot 72).

HEARING DATE: August 22, 1979
DECISION DATE: October 3, 1979

FINDINGS OF FACT:

1. The subject property is located at the northwest corner of the intersection of Kilbourne Place and 17th Street and is known as 1701 Kilbourne Place, N.W. It is in an R-4 District.
2. The subject site is 1,375 sq. ft. in area and is improved with a three story and basement brick building. Certificate of Occupancy No. B-44387 was issued April 19, 1966 for the use of the first, second and third floors of the subject premises as a rooming house consisting of ten bedrooms.
3. The applicant now proposes to convert the subject premises to an apartment house of four units. Under the Zoning Regulations conversions to an apartment house containing three or more units require 900 sq. ft. of lot area for each unit in the building. The applicant is requesting a variance of 2,225 sq. ft.
4. As aforementioned the applicant has a valid certificate of occupancy for a rooming house. In the subject property there is one kitchen per floor which is not in accordance with the definition of a rooming house. The applicant was advised to apply for a Certificate of Occupancy for an apartment house. The applicant would prefer to continue to operate a rooming house if the Board would allow him to keep his kitchens.

5. The Zoning Regulations define a rooming house as a building or part thereof, other than a motel, hotel, or private club, which provides sleeping accommodations for three or more persons who are not members of the immediate family of the operator or manager, and such accommodations are not under the exclusive control of the occupants thereof.

6. The basement of the subject property contains three rooms, one kitchen and one bathroom. The first, second and third floors all consist of three individual bedrooms, a kitchen and a bath. Each bedroom is individually locked. There is one tenant in each bedroom. There is no connecting doorway from one room to another. Each tenant shares a common bathroom and kitchen.

7. A petition was submitted in opposition to the application from neighborhood residents on the following grounds:

a. A variance from the present requirements of the zoning regulations would run counter to an established trend in the area toward conversion of non-conforming rooming houses to their original purpose as single family homes. The conversion of this building from non-conforming rooming house to a non-conforming four unit apartment building virtually insures its ultimate conversion to condominiums. Thus, the sought exemption would lead to the result that 1701 Kilbourne Place will never conform to the character of the neighborhood and thereby disturb its balance.

b. Given the fact that the area adjacent to said property is unusually crowded for a residential area the establishment of new apartments with no parking facilities is bound to aggravate the already severe congestion.

A tenant in the subject property was also opposed to the subject application on the grounds that if the relief was granted the property would shortly be converted to a condominium and the present tenants would be forced to vacate. This tenant requested that the subject property remain as it is and that a variance be granted for the kitchens to stay.

8. At the Public Hearing the Board requested that the OPD report on the property. By report dated 9/28/79 the OPD reported that an inspection of the property revealed that in order to convert the premises to four apartment units which fulfill the

requirements of the Zoning Regulations, extensive interior modifications would be necessary. The majority of residential dwellings in the area are either single family dwellings or flats. There appears to be no substantial reason why this property could not be used in compliance with the Zoning Regulations.

The applicant has a valid certificate of occupancy for a rooming house (No. B-44387). He has been advised that the presence of one kitchen per floor is not in accordance with the definition of a rooming house and was, therefore, required to apply for an apartment house certificate of occupancy. The applicant has testified that he wishes to continue to operate a rooming house at this location. The tenants, who number approximately sixteen at present, are concerned that should the applicant be granted a variance for an apartment house use, they will be forced to move.

The Office of Planning and Development noted that this property is reasonably well maintained. The OPD was also concerned that the grant of this application for an apartment could result in a reduction of housing accommodations at a time when housing in the city is in short supply. Since the applicant has stated that he wishes to continue to operate this property as he has in the past, OPD suggests that the request for the use variance be denied, but that the applicant be granted a variance to allow a rooming house use with ten bedrooms and four kitchens. For reasons discussed in the Conclusions of Law the Board does not concur with this report.

9. ANC-1E made no recommendation on the application,

CONCLUSIONS OF LAW:

Based on the record the Board concludes that the applicant is seeking an area variance the granting of which requires a showing of a practical difficulty stemming from the property itself. The Board concludes that there is not a practical difficulty inherent on the property itself. The property is small and a variance of 2,225 sq. ft. is too great. The property can be used in accordance with the Zoning Regulations. It cannot continue to be used as a rooming house unless the kitchens are eliminated. While this may produce an economic hardship to the owner it does not constitute a practical difficulty arising from the property itself. It has been suggested that the Board grant a variance to allow the rooming house to continue with the four kitchens. The Board concludes that this is contrary to the definition of a rooming house as defined in the Zoning Regulations and cannot be granted without substantially impairing

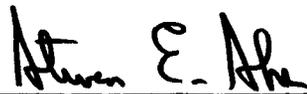
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the intent, purpose and integrity of the Zoning Regulations.
For all these reasons it is ORDERED that the application be
DENIED.

VOTE: 3-1 (Mr. Leonard McCants, Chloethiel Woodard Smith and
Charles Norris to deny, Ruby McZier opposed,
William McIntosh not voting, not having heard the
case).

BY THE D. C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 4 JAN 1980

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION
OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER
HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE
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