

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13091 of Lawson and Lawson Realtors, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for special exceptions under Paragraph 3105.42 to allow a subdivision and conversion of two apartment houses into four semi-detached and four row dwellings, variances to permit the sub-division and conversion of two apartment houses into four semi-detached and four row dwellings (Sub-section 1302.1) and variances from the lot occupancy requirements (Sub-section 3303.1) and rear yard requirements (Sub-section 3305.1) in an R-5-A District at the premises 419-421 - 32nd Street, S.E. and 418-420 - 32nd Street, S.E. (Square 5449, Lot 806 and Square 5446, Lot 807).

HEARING DATE: December 19, 1979

DECISION DATES: December 19, 1979 and February 6, 1980

FINDINGS OF FACT:

1. The subject application was scheduled initially for the public hearing of November 28, 1979. The hearing was continued since the applicant had not complied with Section 3.33 of the Supplemental Rules of Practice and Procedure before the BZA in that the applicant had failed to post the property at least ten days prior to the public hearing.
2. The subject property 419-421- 32nd Street is located on the southeast corner of the intersection of Ely Place and 32nd Street, S.E. The subject property 418-420 - 32nd Street is located on the southwest corner of the intersection of Ely Place and 32nd Street, S.E. Both properties are in an R-5-A District.
3. Both of the subject sites are rectangular in shape and are each improved with a two story eight unit brick apartment house. The apartment houses were constructed in 1943. The improvements appear identical. The premises 419-421 is vacant. The premises 418-420 is occupied by six tenants.
4. The land uses surrounding the subject properties are single family detached dwellings and two and three story apartment houses. To the south of both properties is a twenty foot public alley.

5. The applicant proposes to subdivide and convert each premises into two semi-detached and two row dwellings, for a total of four semi-detached and four row dwellings. They will be sold in fee simple. The selling price range is \$42,000 - \$45,000 and the dwellings will be financed through the FHA.

6. No on-site parking spaces will be provided for either development. The improvements existed prior to May 12, 1958, the effective date of the current Zoning Regulations and are not required to provide off-street parking. On street parking is permitted on the streets fronting the premises. The applicant testified that the decrease in the number of units from sixteen to eight will reduce the number of cars in the area.

7. The applicant is requesting for each subdivision a lot occupancy variance of 290 square feet and a rear yard variance of 5.50 feet.

8. Pursuant to Paragraph 3104.42 of the Zoning Regulations the application was referred to the Board of Education, Department of Transportation, Department of Housing and Community and Development and the Office of Planning and Development for their comments and recommendations.

9. By memorandum, dated October 22, 1979, the Board of Education reported that there will be no impact upon school facilities in the subject area caused by the proposed development. The Board so finds.

10. The Department of Transportation by memorandum, dated November 27, 1979, noted that because of the reduction in the number of dwelling units, the problem of shared on-street parking will be substantially reduced. The DOT stated that its policy on new housing is to recommend at least one off-street parking space per unit but since this is a conversion proposal and the parking problem would be eased somewhat, the DOT had no objection to the application. The Board so finds.

11. No reply was received from the Department of Housing and Community Development.

12. The Office of Planning and Development by report, dated November 20, 1979, recommended that the application be conditionally approved. The OPD listed the conditions as follows:

1. That a tenant relocation plan for the remaining families in 418-420 - 32nd Street be submitted to the BZA.
2. That more detailed landscape and elevation plans be submitted for BZA review. These plans should indicate the placement and type of trees and shrubs on the premises, and show fencing of an appropriate type to help buffer the proposed dwellings rear yards from abutting properties. The elevation plan should show a more detailed description of fenestration, front porch railing type, rear yard patios, exterior lighting, and a centrally located trash collection bin, attractively housed in a weather proof enclosure, preferably made of brick.

The Office of Planning and Development further reported that the proposed development will be in harmony with the general purpose and intent of the Zoning Regulations and will not tend to affect adversely the use of neighboring properties provided that the conditions of approval previously stated are met. The OPD noted the close proximity of the site to Fort Dupont Park which has both passive and active recreational facilities available for use by the public. The subject premises are within the boundaries of Kimbal Elementary, Sousa Junior High and Anacostia Senior High Schools. These schools can accommodate the projected number of students to be generated by the eight townhouses. The OPD reported that the proposal represents an opportunity to offer moderately priced fee simple housing units into an inflated housing market which many times excludes the low and middle income buyer. The OPD supported this application, provided the necessary and expected amenities and architectural provisions are included to adequately serve the future residents of the project and surrounding area. The OPD noted the practical difficulty upon the owner in respect to the area variances requested. The subject apartment buildings have existed on the site since 1942. The original foot print of the structures will not be altered. The area dimensions creating the need for said variances are the same. The OPD was of the view that the granting of this application will be consistent with the intent and purpose of the Zoning Regulations and will not cause substantial detriment to the public good provided that the conditions previously stated are complied with. The Board so finds.

13. There was no opposition to the application.

14. Advisory Neighborhood Commission 6C made no recommendation on the application.

15. The Board, at the public hearing of December 19, 1979 tentatively granted the application subject to its review and approval of a tenant relocation plan and more detailed landscaping and elevation plans. At the public meeting of February 6, 1980, the Board approved the modified site plan, the landscaping plan and the tenant relocation plans marked as Exhibit No. 27, 32 and 35 of the record.

CONCLUSIONS OF LAW:

Based on the record, the Board concludes that the applicant is seeking area variances and special exceptions. As to the area variances, the applicant must show a practical difficulty stemming from the property itself. The Board found that the two dwellings were constructed in 1942 a date prior to the current Zoning Regulations. Both dwellings have a public alley to the rear of the properties. The proposal is to convert existing structures on the land. The builder is accordingly limited in his conversion plans. Also the lot occupancy variance is minimal. The Board concludes that the practical difficulty is inherent in the property.

As to the special exceptions, based on finding No. 12, the Board concludes that they can be granted as in harmony with the general intent and purpose of the Zoning Regulations and that the granting of the special exceptions will not tend to affect adversely the use of neighboring property. Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:

1. The tenent relocation plan marked as Exhibit No. 35 of the record shall be attached and made a part of this Order.
2. The applicant shall comply with the landscaping plan as marked as Exhibit Nos. 27 and 32 of the record.

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

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

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

FINAL DATE OF ORDER: 31 MAR 1980

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS

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."