

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13099, of Robert and Mamie Harley, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Sub-section 7104.2 to change a non-conforming use from an apartment house consisting of four units to a rooming house, first and second floors, consisting of six persons in an R-3 District at the premises 1333 Adams Street, N.E. (Square 3950, Lot 9).

HEARING DATE: November 28, 1979
DECISION DATE: December 5, 1979

FINDINGS OF FACT:

1. The Board, for good cause shown, waived the requirements of Section 3.33 of the Supplemental Rules of Practice and Procedure before the BZA which requires that the subject property be posted at least ten days prior to the date of the public meeting. In this case the property was posted for nine days.

2. The subject property is located on Adams Street between 14th and Downing Streets, N.E. and is known as 1333 Adams Street, N.E. It is in an R-3 District.

3. The subject site is 3,060 square feet in area and is improved with a two-story brick apartment house of four units. Other than the Brentwood Village which is zoned R-5-A, the subject property is included in and surrounded by R-3 Districts.

4. A Certificate of Occupancy No. 82945, was issued September 9, 1949 for the use of the subject property as an apartment house of four units. It is a non-conforming use.

5. The applicant proposes to convert the apartment house to a rooming house, first and second floors, for six persons.

6. The applicant testified that she does not occupy the subject premises, but a daughter does. The applicant owns a rooming house in Northwest that provides a greater return on the property than the subject apartment house. The applicant testified that her roomers in the property located in Northwest often request a need for a rooming house in the Northeast section of the District. The applicant further testified that the income produced from the subject property is insufficient to meet the expenses of the family. There have been rent delinquencies in the subject property and ensuing court actions to obtain evictions. The applicant testified that she does not have all these problems with her rooming house. The applicant has owned the subject property for two years.

7. The applicant testified that there would be fewer people occupying a rooming house than in the subject apartment house. There was no further testimony from the applicant.

8. Advisory Neighborhood Commission - 5B testified at the public hearing and submitted a written statement dated November 27, 1979. The ANC opposed the application on the grounds that to grant a special exception in Application 13099 would not be in keeping with Sub-section 8207.2 of the Zoning Regulations. The premises of 1333 Adams Street, N.E. is already in non-conforming use in an R-3 District. The ANC argued that to allow the conversion into a rooming house, which is allowed in an R-4 District, would not be in keeping with the intent of R-3 District Zoning Regulations which is designed to maintain a family life environment in neighborhoods of essentially row dwellings which may be mingled with one-family detached, semi-detached and groups of three or more row dwellings. There are no R-4 Districts even in the vicinity of the neighborhood in consideration. The ANC alleged that approval of this application could open the door to similar requests to convert apartments to rooming houses in this area. Such a pattern would change the nature of the family oriented residential neighborhood. It would serve to foster a more transient population which would further compound existing parking and traffic problems in the area. The ANC reported that existing property owners in the area are justly concerned that to approve this application may ultimately lead to the depreciation of the value of their property and lend to an environment of low rental desirability. Lastly, such a pattern may also encourage conditions of overcrowding, neighborhood blight and a rise in the crime rate. The ANC endorses the petition in protest to Application 13099 circulated by the Brentwood Community Association and signed by residents of Adams Street, N.E., W Street, N.E., Downing Street., N.E., 13th Street., and Place., N.E. and 14th Street, N.E. The Board concurs with the position of the ANC.

9. The president of the Brentwood Community Association testified that, in reference to the petition which the ANC referred to in its testimony, the signatures were collected by the Association through block captains on each street who went from door-to-door, showed the application notice, had the signatories read the application notice and that the residents were free to sign the petition or not. The petition contained 109 signatures in opposition to the application. The Association was in accord with the statement of the ANC.

10. The W Street Civic Association and individual property owners in the immediate neighborhood also opposed the application for similar reasons expressed by the ANC and the Brentwood Community Association. There were also letters on file in opposition to the application.

11. No residents of the neighborhood testified at the public hearing in favor of the application.

CONCLUSIONS OF LAW:

Based on the record, the Board concludes that the applicant is seeking a special exception, the granting of which requires proof that the applicant has substantially complied with the requirements of Sub-section 7104.2, Paragraph 7109 and Sub-section 8207.2 of the Zoning Regulations. The Board concludes that the applicant has failed to do this. The applicant has not met the burden of proof. The Board notes that the basic reason of the applicant in seeking the special exception is a financial one. This is insufficient to support the relief requested. The applicant has other resources through other Departments of the District Government in which to seek her relief. The Board further concludes that the special exception cannot be granted as in harmony with the general purpose and intent of the Zoning Regulations and as evidenced in finding Nos. 8, 9, 10 and 11, the relief could not be granted without affecting adversely the use of neighboring property. Accordingly, the application is DENIED.

VOTE: 5-0 (Connie Fortune, Charles R. Norris, Walter B. Lewis, William F. McIntosh and Leonard L. McCants to DENY).

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

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

FINAL DATE OF ORDER: 7 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."