

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 13140 of Clarence Hammond, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the use provisions (Sub-section 3104.3) for a proposed sub-division and construction of an apartment house in an R-4 District at the premises 1632 Trinidad Avenue, N.E., (Square 4055, Lots 56, 802 and 834).

HEARING DATE: January 16, 1980  
DECISION DATE: April 2, 1980

FINDINGS OF FACT:

1. The subject property is located on the west side of Trinidad Avenue, south of Meigs Place, N.E. and is known as 1632 Trinidad Avenue, N.E. It is in an R-4 District.
2. The subject lots are approximately 6,964 square feet in area. Lot 56 is improved with a semi-detached dwelling. Lots 802 and 834 are unimproved.
3. The site is irregular in shape due to the lot line divisions. The site slopes upward from Trinidad Avenue. A fifteen foot public alley adjoins the property to the rear. Physically the subject site resembles adjoining properties to the north and south and other properties in the area.
4. The neighborhood surrounding the site is residential where row and semi-detached dwellings predominate. Immediately south of Lot 834 is a group of two story row dwellings. To the north are six semi-detached homes. To the rear of the site is a small two story apartment building and two semi-detached dwellings. Although there are a substantial number of small apartment buildings in this area the majority of them have the appearance of row dwellings. The site is approximately three blocks west of Bladensburg Road and approximately one-half mile north of the Bladensburg Road-Benning Road H Street commercial center. Bladensburg Road is zoned C-2-A north of Oates Street and C-3-A South of Oates Street. The underlying R-4 District covers a wide section of this area including nearby Gallaudet College.

5. The applicant proposes to construct a nine unit apartment house on the subject three lots. The improvement occupying lot 56 would be razed. The proposed new apartment building would contain three efficiency apartments, three one bedroom units and three two bedroom units. All units would be rental units.

6. Permitted residential uses in the R-4 District include single family detached and semi-detached dwellings, row dwellings and flats. New apartment houses are not a permitted use.

7. The conversion of an existing building to apartment houses is permitted in the R-4 District if such building existed prior to May 12, 1958 and if there is a minimum lot area of 900 square feet per apartment.

8. The applicant testified that the income from the proposed apartment building would be greater than if he were to construct three flats and, in addition, he would be providing more rental units to the housing needs of the District of Columbia.

9. The OPD report was not available at the Public Hearing. By direction of the Board a copy of the report was sent to all parties and they were invited to submit their comments to the Board before the Board decided the application. The Office of Planning and Development recommended that the application be denied in that the applicant had not adequately demonstrated the unique circumstances or conditions which are a prerequisite to the granting of a use variance. Physically this site is not significantly different from its immediate neighbors. The Office of Planning and Development did not ascertain any other unique circumstances or conditions which would warrant the grant of a use variance in this case. The OPD further noted that this site could theoretically accommodate up to three flats which could yield six dwelling units. Such a proposal would be more in keeping with the intent and purposes of the R-4 District Zoning Regulations and would be more in character with neighboring houses. The Board so finds.

10. Advisory Neighborhood Commission 5B objected to the application on the following grounds:

- a. The premises in question is located in an R-4 District which has been a stable single family dwelling residential area for many years. Residents in this neighborhood want it to remain a residential area.
- b. There is inadequate space for the proposed subdivision and construction. ANC 5B opposed the proposed construction of a three story, nine unit apartment building between two single family dwellings.

- c. The proposed parking space allotment is inadequate for nine units. Consequently, this will compound the existing parking shortage problem in the area.
- d. There are discrepancies between the figures in the D.C. Zoning Review Branch review of the plans (Exhibit No. 7) and the plans submitted by Steward Daniel Hoban Associates which need to be clarified. For example, the Zoning Review Branch computed the lot area as 6,964.37 square feet, whereas the architects plans list the total lot area as 7164 square feet.
- e. Residents have raised concerns such as the possible depreciation in the value of their single family homes once this construction took place. There is concern about the environmental effects this construction may have such as further cracking the sidewalks and pavement of Trinidad Avenue and increasing the amount of unightly debris in the neighborhood.

11. The Board is required by statute to give great weight to the issues and concerns of the ANC. The Board concurs in items "a" and "b". The Board finds that the proposed parking is in conformance with the Zoning Regulations. For reasons stated below, the discrepancies in the area dimensions is not dispositive of the application. As to item "e" the Board finds this immaterial since any damages to adjacent properties arising from construction can be indemnified through other remedies.

12. There was also objection to the application from neighborhood property owners. The grounds for their objections were that the proposed apartment house is not in harmony with the character of the neighborhood and that parking and refuse collection problems would be increased.

CONCLUSIONS OF LAW AND OPINION:

Based on the record the Board concludes that the applicant is seeking a use variance. The granting of a use variance is predicated upon a showing of a hardship upon the owner of the property that is inherent in the property itself. The Board notes that the subject property resembles adjoining properties and that the applicant testified it was possible to construct residential units on the subject property that would be in harmony with the immediate neighborhood. The fact that one type of property would produce more income than another is not a basis for granting a use variance. The Board concludes that there is no hardship in the property itself, and that

the property can be used for a use permitted in the R-4 District. The Board further notes the objection of the ANC and the property owners most affected by the proposed construction. The Board further concludes that the variance cannot be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan. Accordingly, it is ORDERED that the application is DENIED.

VOTE: 5-0 (William F. McIntosh, Connie Fortune, Charles R. Norris and Leonard L. McCants to deny, John G. Parsons to deny by proxy)

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

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

FINAL DATE OF ORDER: 18 JUN 1980

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATION "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".