

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13213 of Daniel Johnson, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the use provisions (Section 3105) to use the subject premises for the storage of building materials in an R-5-A District at the pre-2108 Bryant Street, N.E., (Square 4109, Lot 16).

HEARING DATE: June 11, 1980
DECISION DATE: September 3, 1980

FINDINGS OF FACT:

1. The subject square 4109 is bounded by Queens Chapel Road, Channing Street, 21st Place and Bryant Street, N.W. The subject Lot 16 is located on the north side of Bryant Street where it dead ends just before Queens Chapel Road. The subject property is bordered on the north and west by two vacant houses. Lot 16 is known as 2108 Bryant Street, N.E. It is in an R-5-A District.

2. Square 4109 has both single family dwellings, most of which are older frame structures, and small two story apartment buildings. The apartment buildings are located at the northern end of the square along 21st Place and Channing Street.

3. The area is one of marked contrasts. South of Bryant Street, in the C-M-2 District, are numerous large warehouse and commercial establishments including a George's Warehouse. The squares to the north and west of the subject site contain well maintained single family dwellings. Most of the properties in Square 4109 are in need of repair and maintenance. In general, in the further north section of the B&O railroad tracks and the Commercial Manufacturing districts, neighborhood conditions are better.

4. Immediately across Bryant Street from the subject property is the Capitol Reclamation Company which appears to be a waste paper collection and recycling company. The company is also listed as the owner of Lot 805 in Square 4109 which is located on Bryant Street at the corner of 21st Place.

5. The subject site is approximately 2,052 square feet in area. It is rectangular in shape and flat. The lot is unimproved and is a fenced in lot. There originally had been a barn on the property which the applicant tore down.

6. The applicant, a contractor, purchased the property approximately two and one-half years ago. He has been storing his building materials, consisting of fencing, cement and brick, on the property since his purchase. The applicant also has a truck on the property.

7. By letter of October 19, 1979 the applicant was advised by the District of Columbia Zoning Inspection Branch that he was using the property without a proper Certificate of Occupancy and the applicant was advised to apply to the Board of Zoning Adjustment for a variance from the use provisions. The applicant filed an application with the Board on February 26, 1980.

8. On April 22, 1980 the applicant was advised by the Zoning Secretariat that several attempts to obtain from him sufficient information to process the application were fruitless and that if the requested information was not received that his application would be subject to Dismissal With Prejudice.

9. The applicant presented no testimony or evidence that there was any exceptional or extraordinary condition of this property that prevents it from being used for conforming R-5 purposes. The applicant presented no testimony or evidence that he would suffer a hardship if the regulations were strictly applied.

10. A property owner in the immediate vicinity of the subject lot complained of the accumulation of trash, debris and rodents in the surrounding area of the subject lot that came from the surrounding commercial enterprises. The property owner also testified that the subject lot could be kept in a better condition.

11. The Office of Planning and Development in its report dated June 6, 1980 had reported on the lot adjacent to the subject lot. In a subsequent report dated August 18, 1980 the OPD recommended that the application be denied on the grounds that the present use for an open storage yard is not compatible with the intent and purposes of the R-5-A District and is detrimental to the physical conditions of the area. The OPD noted that the entire north side of the 2100 block of Bryant Street, all of which is zoned R-5-A, has a tremendous accumulation of trash and debris, including junked cars, and construction materials. The OPD has notified the Zoning Administrator to determine if these properties are being legally used and the Department of Environmental Services regarding the vacant houses and clearing of the accumulated debris.

The Board concurs with the OPD report.

12. Advisory Neighborhood Commission 5B, by letter filed June 12, 1980, reported that it had no objection to the application. No reasons were stated.

13. The Board is required by statute to give great weight to the issues and concerns of the ANC. The Board, for reasons stated below, disagrees with the ANC recommendation. Since the ANC expressed no issues and concerns the Board has nothing to address.

CONCLUSIONS OF LAW:

Based on the record the Board concludes that the applicant is seeking a variance from the use provisions. Such relief requires a showing of a hardship upon the owner of the property that stems from the property itself. The Board concludes that there is no hardship in the property. It is rectangular in shape and flat and could be put to a use for which it is zoned. The Board further concludes that the requested relief 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: 3-0 (Charles R. Norris, Connie Fortune and Walter B. Lewis to deny, William F. McIntosh and Leonard L. McCants not present, not voting).

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

ATTESTED BY:



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 10 NOV 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."