

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 13227, of SOS Ventures, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Sub-section 3308.2 to allow roof structure additions that are not contained under one enclosure, a variance from the 900 square foot minimum lot area requirements (Sub-section 3301.1) and a variance from the use provisions (Sub-section 3104.3) for proposed additions consisting of two penthouse structures and two bays and conversion of the subject premises into an apartment house in an R-4 District, at the premises 608 Massachusetts Avenue, N.E., (Square 865, Lot 820).

HEARING DATE: April 23, 1980  
DECISION DATE: May 7, 1980

FINDINGS OF FACT:

1. The subject property is located in an R-4 District on the south side of Massachusetts Avenue between 6th and 7th Streets, N.E. The lot is a through lot, also having frontage on C Street, N.E.
2. The subject site is presently improved with a structure built by the Christ Child Society for use as a Boy's Club. In 1976 the property was sold to the Police Association and in June of 1979 the applicant herein purchased the property.
3. The existing building contains three stories plus a basement. The applicant proposes to convert the building to an apartment house containing twelve units. There will be seven parking spaces in the basement, with access via a ramp from Massachusetts Avenue.
4. Sub-section 3301.1 requires a minimum lot area of 900 square feet per dwelling unit to convert a building to apartments. The subject site has a lot area of 6,874 square feet. A lot area of 10,800 square feet would be required. The applicant has thus requested a variance of 3,926 square feet.
5. The building will contain a gross floor area of approximately 16,680 square feet. This results in a gross area of approximately 1400 square feet per unit for twelve units. If only seven units as permitted are provided, the gross area per unit would be approximately 2,400 square feet.

6. The building was built at the time when there was no lot occupancy limitation. Because of the through lot situation, the building is substantially larger than what is presently permitted.

7. The configuration of the building is such that there will be two central lobbies and stairways through the building. There will be eight two-story units and four one-story units in the building. As the testimony of the architect indicated, due to market demand and aesthetic factors, the interior configuration and layout of the proposed units may be changed. None of these changes, however, would affect the granting of these variances.

8. The existing building has one existing roof-top penthouse located on the Massachusetts Avenue half of the roof. The applicant proposes to add two additional stair penthouses on the C Street half of the roof, to provide access to three decks for recreational purposes. The stairs also provide a means of egress in case of fire.

9. Paragraph 3308.2 requires that all penthouses be placed in one enclosure. The applicant proposes a total of three separate penthouses, and requests a special exception under Sub-section 3308.2 to permit that.

10. The penthouses will all be nine feet in height above the level of the roof. The penthouses will not generally be visible from the ground level above the parapet of the building.

11. The location of the penthouses is dictated by the locations of the stairs in the units. It would be possible to extend enclosing walls around all three penthouses. Such walls are unnecessary, would add to the mass of the structure on the roof, and are not reasonably required for the building.

12. In the back half of the existing building fronting on C Street there is a large gymnasium with a ceiling height of approximately twenty-eight feet. The applicant proposes to slice through that space horizontally, and divide it into two floors.

13. Paragraph 3104.33 permits the conversion of a building existing before May 12, 1958, to an apartment house. The Zoning Administrator has interpreted that paragraph to apply to all or part of a building. Since a portion of the building, the new floor constructed in the upper half of the gymnasium, did not exist before May 12, 1958, a variance from the provisions of Paragraph 3104.33 is required.

14. There is no reasonable residential use to which the two story gymnasium space could be put.

15. The Capitol Hill Restoration Society, by letter dated April 15, 1980, supported the application, on the grounds that the variances being sought did in each instance have a sound legal basis. The Society further believed that the conversion of the property to apartments would likely have a favorable impact on the surrounding neighborhood. The Board so finds.

16. The Stanton Park Neighborhood Association, by letter dated April 25, 1980, supported the conversion of the building to apartments, but opposed the creation of twelve units in the building. No grounds for that opposition were stated.

17. Advisory Neighborhood Commission - 6A, by testimony of one of its Commissioner and by letter dated May 2, 1980, supported the application, on the grounds that residential use was consistent with the neighborhood and would be beneficial to the tax base of the District of Columbia. The Board concurs.

CONCLUSIONS OF LAW AND OPINION:

Based on the above findings of fact and evidence of record, the Board is of the opinion that the applicant has met all the requirements and standards set forth in Sub-section 3308.2 for the special exception requested. Due to the existing building and the location of the existing roof structure, the strict application of Section 3308.12 is impracticable in this case, and is unnecessary. Further, the grant of the requested relief will not adversely affect the intent and purpose of the roof structure regulations in Section 3308 or interfere or adversely affect any adjacent or surrounding properties.

As to the variance from Sub-section 3301.1, the Board concludes that such a variance is an area variance, the granting of which requires the showing of an exceptional or extraordinary condition of the property which creates a practical difficulty for the owner. The Board concludes that the size and configuration of the building are exceptional for this area, and that strict application of the regulations limiting the building to seven units would cause a practical difficulty for the owner.

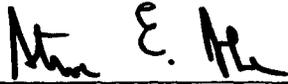
As to the variance from Sub-section 3104.3, the Board concludes that such a variance is a use variance, the granting of which requires the showing of an exceptional or extraordinary condition of the property which creates an undue hardship upon the owner. The Board concludes that the twenty-eight foot height of the former gymnasium is such a condition. The Board further concludes that there is no reasonable residential use that can be made of such or space. The Board concludes that there is hardship upon the owner because of the inability to use the space in its present configuration. Additionally, the Board concludes that both the requested variances can be granted without detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations.

The Board concludes that it has accorded to the Advisory Neighborhood Commission the "great weight" to which it is entitled. It is therefore ORDERED that the application is GRANTED.

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

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

ATTESTED BY:

  
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STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER: 7 JUL 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."

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.