

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13257, of Carole J. Jacobs, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the minimum lot area requirements (Sub-section 3301.1), the lot occupancy requirements (Sub-section 3303.1 and Paragraph 7107.21) and a modification of the Board's previous Order No. 12584 to use the subject premises, a non-conforming structure, as a four unit apartment house in an R-4 District at the premises 1118 F Street, N.E., (Square 983, Part of Lots 33 and 34).

HEARING DATE: June 18, 1980

DECISION DATES: September 3 and October 1, 1980

DISPOSITION: The application was DENIED by a vote of 3-0 (William F. McIntosh, Connie Fortune and Leonard L. McCants to DENY; Charles R. Norris not voting, not having heard the case).

FINAL DATE OF ORDER: November 10, 1980

ORDER

The applicant filed a timely motion for Reconsideration of the Board's Order denying the application. The basis for the motion is that the applicant would suffer grave financial hardship if the applicant was forced to renovate the subject property as a flat rather than use the premises as a four unit apartment house. The Board concludes that it committed no error in deciding this application. The issue of financial hardship was thoroughly presented at the public hearing and the Board concluded that an economic hardship was not grounds for granting an area variance. No materially different evidence has been submitted in support of the motion for Reconsideration that the Board had not considered previously. Accordingly, it is ORDERED that the Motion is DENIED.

VOTE: 3-0 (Connie Fortune, Charles R. Norris and William F. McIntosh to DENY; Douglas J. Patton not present; Walter B. Lewis not voting, not having heard the case).

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

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

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FINAL DATE OF ORDER: 22 DEC 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."

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HEARING DATE: June 18, 1980

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FINDINGS OF FACT:

1. The subject property is located on the north side of F Street between 11th and 12th Street facing Maryland Avenue, N.E. and is in an R-4 District.
2. The subject property was once part of a larger site comprising approximately 3,500 square feet and, which until March 21, 1954, was known as Lots 33 and 34 in Square 983. Each of the previous lots was improved with an apartment building. Each lot was 16,355 feet wide and 110 feet in depth, and each building occupied approximately 70.4 percent of the lot. A Certificate of Occupancy No. B-68006, was issued June 9, 1971 for a six unit apartment house.
3. In March 1954, the following changes occurred at the two premises: (1) A triangular section, approximately 100 square feet in area, was sold off the northeast corner of Lot 34, known as 1118 F Street, N.E., to provide alley access to the abutting property at 1120 F Street, N.E.; (2) a single heating unit to service both premises was installed in the basement of one of the buildings and a doorway was created in the common wall in the basement; (3) In light of the aforementioned structural change the tax assessor's office designated the two properties as a single lot, number 863.
4. In December of 1977, Thomas Wehman, the owner of the properties, filed an application No. 12584 before the Board. That application requested variances from the prohibition against creating a lot that does not conform to the Zoning Regulations, in order to subdivide lot 863 into two lots and convert the six unit apartment building into two flats. By order dated March 28, 1978, the Board granted the application.

5. Subsequently, Mr. Wehman sold the entire Lot 863 to James Galvagna. Mr. Galvagna then subdivided Lot 863 into parcels. The westernmost parcel contains the building known as 1116 F Street, and has an area of 1,679 square feet. The easternmost parcel contains the building at 1118 F Street, and has an area of 1,819 square feet.

6. Mr. Galvagna renovated the premises at 1116 F Street as a flat. It contains one unit in the basement and one unit on the first, second and third floors. There is currently a contract for the sale of that unit.

7. The applicant in this case purchased the premises 1118 F Street from Mr. Galvagna in December of 1979. The applicant testified that when she bought the building, she knew that the Board had limited use of the premises to a flat.

8. The subject premises have not been renovated. The building consists solely of the bare walls, floors and supporting joists, and two stairways. All windows and most window frames have been destroyed, and there is no utility service to the building.

9. The applicant proposes to renovate the building into four one bedroom plus den dwelling units, with one unit on each floor.

10. Pursuant to Sub-section 3301.1, a minimum lot area of 900 square feet is required for each apartment when a building is converted to apartments. The subject lot is therefore required to have 3,600 square feet of lot area. Since the area of the lot is only 1,819 square feet, a variance of 1,781 square feet is required.

11. In an R-4 District, pursuant to Sub-section 3303.1, there is no limitation on the percentage of lot occupancy for a building being converted to a multiple dwelling. The applicant therefore requires no variances for the proposed fire escape addition at the rear.

12. Paragraph 3104.33 permits in an R-4 District the conversion of a building existing before May 12, 1958 to an apartment house. The Zoning Administrator has determined that that provision is to be applied to a building or portion thereof. Since the applicant in this case proposes to add the fire escape addition at the rear to serve an apartment house, a variance from the provisions of Paragraph 3104.33 would be required.

13. The applicant argued that the property was affected by an extraordinary condition in relation to the adjoining building at 1120 F Street. There is an existing 2.855 foot wide court which adjoins the major portion of the subject building on its east side. The building at 1120 F Street abuts the property line. There is thus only a narrow open area for light to penetrate to the side windows of 1118 F Street. The applicant argued that the building can be renovated into more reasonable living space if four individual units are constructed, which have their service function in the middle of the building than if rooms which require more natural light and ventilation are located in the mid-section of the building, which would be the case if a flat were constructed.

14. The applicant argued that, if she were required to renovate the building as a flat, the size of the units would be difficult to market and would not meet the need for housing in this area of the District of Columbia. The applicant further argued that two large units would be out of character with the immediate neighborhood in which the building is located. There are apartment buildings of twenty-seven, forty-eight and six units in the 1100 block of F Street as well as one flat and two single family dwellings.

15. The applicant argued that no more people would likely be present in a building containing four one-bedroom apartments than in two three-bedroom units.

16. The owner and contract purchaser of the adjacent property at 1116 F Street appeared at the hearing in opposition to the application, on the grounds that the increase in the number of dwelling units would add to existing parking problems in the neighborhood.

17. The Capitol Hill Restoration Society, by letter dated June 19, 1980, opposed the application on the grounds that the applicant had presented no economic hardship or practical difficulty to justify a variance within the meaning of the Zoning Regulations and because the Society traditionally opposes applications such as the instant case which seek increased density in R-4 zones.

18. There was no report from Advisory Neighborhood Commission 6A.

19. As to the various arguments made by both the applicant and the parties in opposition, the Board finds as follows:

- a. The property is affected by an extraordinary condition, by virtue of its configuration which existed prior to the adoption of the present Zoning Regulations and its location in relationship to the adjoining building to the east.
- b. The applicant has failed to demonstrate adequately to the Board how the strict application of the regulations would create a practical difficulty or hardship for her. The fact that present financial conditions may adversely effect the marketability of a flat is not a proper basis for the granting of a variance.
- c. In granting application No. 12584, the Board determined that the reduction in the number of dwelling units would be consistent with the intent and purpose of the Zoning Regulations. To increase the number of units as proposed in this application would be contrary to the general intent of the Zoning Regulations to limit density in the R-4 District to no more than one unit for each 900 square feet of lot area.
- d. It is likely that the total number of occupants of the building will not be significantly different between four one-bedroom units and two three-bedroom units. Given the availability of some off-street parking at the rear of the building, it is not likely that the addition of two units would materially affect the existing parking problems in the area.
- e. The applicant presented no testimony or evidence as to why the variance regarding the fire escape was necessary, as to what practical difficulty or hardship would be suffered if the Zoning Regulations were strictly applied and the fire escape was not permitted.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the requested lot area 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 variance regarding the fire escape addition is a use variance, since it is Paragraph 3104.33 of the use regulations which limits conversion of a building to apartments to buildings in existence prior to May 12, 1958.

As to the area variance, the Board concludes that there is an exceptional condition affecting this property regarding its use as a flat, and that the building might be more appropriately arranged for four apartment units. However, the Board concludes that the applicant did not demonstrate how the strict application of the Zoning Regulations would create a practical difficulty for her as the owner. The Board further concludes that approval of the application would be contrary to the intent of the regulations by allowing approximately twice as many units as would normally be permitted.

As to the use variance, the record is devoid of any evidence or testimony addressed to this variance. The Board concludes that the applicant has demonstrated no basis for the granting of such a variance.

The Board therefore 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 as embodied in the Zoning Regulations and maps. It is therefore ORDERED that the application is DENIED.

VOTE: 3-0 (William F. McIntosh, Connie Fortune and Leonard L. McCants to DENY; Charles R. Norris not voting, not having heard the case).

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

ATTESTED BY:



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER:

10 NOV 1980

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