

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 13337 of Ramon Rouco, et al., pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the use provisions (Section 3102) to use all three floors of the subject premises as an apartment house consisting of three units in an R-2 District at the premises 4127 River Road, N.W., (Square 1732, Lot 815).

HEARING DATE: September 17, 1980

DECISION DATE: October 1, 1980

FINDINGS OF FACT:

1. The subject site is located at the northeast intersection of 42nd Street and River Road and is known as 4127 River Road, N.W. It is in an R-2 District.

2. The lot is irregular in shape. It has frontages on River Road and 42nd Street. The site is improved with a two and one half story and basement structure with garage. On the west side of the site is a concrete and stone court that accomodates eight cars.

3. The structure is presently used as an apartment house of three units, basement, first and second floors. Each unit has its own kitchen and bath. There is no Certificate of Occupancy for the present use as an apartment house.

4. There was testimony of an owner of five houses in the immediate area of the subject property who rents her five houses as single family residences. Her testimony was to the effect that the subject property to her knowledge has been used as an apartment house since prior to the current Zoning Regulations.

Such use has also been in existence continuously since May 12, 1958. Each unit had separate kitchen and bath facilities. She further testified that such use never created any disturbance in the neighborhood. The Advisory Neighborhood Commission testified that it had been advised that the subject structure had been moved from a prior site to its present location and that the existing single family residences on the street were built around the subject structure.

5. The applicants purchased the subject property on October 19, 1975 as a three unit apartment house. It was in a dilapidated condition and the applicants restored it.

6. Advisory Neighborhood Commission 3E testified at the Public Hearing that the opposition to the application was basically from the property owner to the north of the subject property. The opposer limited his opposition to the manner in which the concrete and stone court immediately adjacent to his site had the appearance of a parking lot. There was further testimony that the applicant and his opposition had agreed to work out the issue. (Exhibit 16 of the record). The applicant will reduce this court to a driveway access from River Road on to the site and then provide four parking spaces. The balance of the court will be put back into a landscaped condition. With this agreement the Advisory Neighborhood Commission had no opposition to the application. The Board so finds.

7. There was no further opposition to the application at the Public Hearing or of record.

CONCLUSIONS OF LAW:

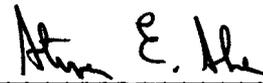
Based on the record the Board concludes that the applicants are seeking a variance from the use provisions the granting of which requires a showing of a hardship upon the owner of the property that is inherent on the property itself. The Board concludes that the hardship exists from the long history of the use of the subject property as an apartment house that predates May 12, 1958, the effective date of the current Zoning Regulations.

The Board notes that if the building had had a proper Certificate of Occupancy, it would be considered as a non-conforming use. The Board notes the lack of opposition to the actual use of the premises as an apartment house. The Board further concludes that the application can be granted without substantial detriment to the public good and without substantially impairing the intent purpose and integrity of the zone plans. Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the CONDITION that the applicant shall have a maximum of four paved parking spaces on the lot with the balance of the area to be utilized as a yard properly landscaped as proposed by the applicant in Exhibit No. 16 of the record.

VOTE: 4-0 (Theodore F. Mariani, William F. McIntosh, Connie Fortune and Charles R. Norris to grant, Leonard L. McCants 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:

1 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."

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.