

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 13348 of Michael J. Heller, Trustee, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Sub-section 7104.2 to change a non-conforming use from a rooming and boarding house consisting of thirty-three units, all floors and basement, to an apartment house of fourteen units and for a variance to allow structural alterations to a non-conforming building devoted to a non-conforming use (Sub-paragraph 7106.121) in an R-3 District at the premises 2107-09 S Street, N.W., (Square 2532, Lots 43 and 48).

HEARING DATE: September 24, 1980

DECISION DATE: September 24, 1980 (Bench Decision)

FINDINGS OF FACT:

1. The subject property is located on the north side of S Street between Phelps Place and Connecticut Avenue and is known as 2107-09 S Street, N.W. It is in an R-3 District.

2. The total area of the subject lot is 5,950 square feet. The subject site is presently improved with two townhouse structures and an annex thereto constituting a single building.

3. The former townhouses were constructed in 1896 and the two story annex was built in 1901.

4. The most recent recorded certificate of occupancy, No. B-12049, issued June 12, 1958, is for a thirty-three room rooming and boarding house. The subject site was in such use until July, 1980. The structure is now vacant.

5. The District of Columbia Department of Housing and Community Development has given a certificate of eligibility for the conversion of this combined townhouse-type structure and annex devoted to transient use to fourteen condominium apartments.

6. The existing combined structure is non-conforming as to the maximum lot occupancy of forty percent for the R-3 zoning district. The existing structure occupies in excess of fifty-five percent of the lot. The subject structure is also non-conforming as to the rear yard requirements in that it has an open court rather than a rear yard due to the existing building configuration.

7. The existing structure contains a total of approximately 15,700 square feet of actual floor area.

8. The applicant proposes to change the existing interior configuration of the building, which contains many small cubicles of space averaging ninety feet in area into fourteen apartments consisting of five one-bedroom and nine two-bedroom units, ranging in area from 700 to 1,400 square feet.

9. The structural alterations proposed by the applicant consist of cutting through floor joists to put in new staircases to meet modern fire code requirements and adding several skylights at the roof level in order to meet the current light requirements of the Building Code.

10. The subject property, while located in an R-3 zone, lies neat the intersection of Florida and Connecticut Avenues, N.W., in an area with a diversity of uses including embassy, institutional and commercial as well as residential uses.

11. The applicant's proposed residential use is consistent with existing neighborhood uses within a 300 foot radius.

12. The applicant testified that adequate parking is available for the subject site. Two existing nine feet by nineteen feet spaces will be retained on the subject site. Residential permit parking is in effect on the block of S Street, N.W. in which the property is located. Commercial lots are available within a two block radius and the applicant's survey of parking availability on-street indicated that sufficient parking was available for a fourteen unit apartment house use as proposed. The subject site is within two blocks of Dupont Circle Metro stop and is adequately served by bus lines on Connecticut Avenue.

13. The proposed apartment house use is permitted in the most restrictive district in which the existing non-conforming rooming and boarding house use is permitted, namely R-4 district.

14. The applicant's proposal will provide the neighborhood of the subject site with a stable residential use of far less intensity than the previous transient boarding and rooming house use.

15. The applicant's proposal will preserve virtually intact the original exterior configuration of the townhouse structures designed by the prominent local architect, F.T. Schneider. The applicant's proposal will remove unsightly exterior metal fire escapes from the structure. The masonry will be repointed and roof tiles replaced as necessary. The court yard area to the east of the original structure and to the north of the two story

annex will be landscaped into a garden.

16. The applicant testified that the deteriorated conditions of the building in regard to rotting plaster and lath work and insufficient plumbing, wiring and fire egress as well as current market conditions prevent, as a practical matter, the continued non-conforming use of the subject structure as a boarding or rooming house or the return of the structure to single family use due to its substantial size of 15,700 square feet in floor area.

17. Due to the deteriorated conditions of the ceilings and the lack of stairways in the western portion of the structure from the main to the upper floors, virtually nothing could be done to the existing building, even to return it to a conforming use, without substantial structural alterations. The past utilization of the combined structures as a rooming or boarding house has resulted in the creation of many interior partitions, the blocking up of certain windows and other openings in the interior and the side walls and the removal of the stairway which previously served the westernmost townhouse. The size of the structure renders a return of the various portions of the combined structure to the single family use impractical from an economic and marketability standpoint in so far as the cost of rewiring, replacing plumbing and otherwise bringing the structure up to code along is estimated to be \$600,000.

18. The existing interior configuration of the structure consists of small cubicles of space on the upper floors, some measuring only about seven feet by ten feet with an average size of ninety square feet in area. The applicant testified that even continued utilization of the boarding house would probably require some structure alteration in order to make the building acceptable by today's living standards and renovation costs and other such costs preclude the continuation of the boarding house use in this area, from a practical viewpoint.

19. Advisory Neighborhood Commission 1D recommended that the application be approved. The ANC submitted a written statement to the Board noting that on January 24, 1980, representatives of the applicant appeared before the Town Hall and Commission Meeting of ANC 1D and presented plans for the development of the subject site as presented to the Board. The ANC's written comments noted that "the proposed changes will reduce the density, restore the appearance of the structure and uphold the position of the neighborhood in favor of residential use as opposed to institutional or commercial use." The ANC's report further stated that the proposed use is viewed as "the best possible use of the structure" and that adequate parking will probably exist in that there is a good chance that many of the future tenants will not have cars due to the location of the site so close to reasonably good mass transportation. ANC noted that the citizens present at this presen-

tation unanimously agreed that ANC 1D should support the application. The Board concurs in the ANC recommendation.

20. There was no opposition to the proposal at the public hearing or of record.

CONCLUSIONS OF LAW AND OPINION:

Based on the record the Board concludes that the applicant is seeking a special exception and a variance. The Board concludes that the applicant complies with the provisions of Sub-sections 8207.2 and 7104.2 of the Zoning Regulations so as to be entitled to special exception relief to permit a change in a non-conforming use from a rooming and boarding house to a condominium apartment house of fourteen units. The requirements of Section 7109 of the Zoning Regulations are met in that the proposed new residential use is completely consistent with the neighborhood uses in the surrounding area; no advertising sign whatsoever is proposed; there will be no adverse external affects as to noise, traffic or pollution or the like which will require screening from the rest of the neighborhood. Further, two existing on-site parking spaces, the existence of adequate public transportation, the availability of commercial parking spaces, and the availability of on-street parking within a two block radius in the residential permit parking zones evidence that adequate parking is available for occupants of the proposed new use. The provisions of Section 7104.2 are met in that conversion to an apartment house is permitted in the R-4 district, the most restrictive zone in which the previous non-conforming boarding and rooming house use was permitted. The applicant complies with the provisions of Sub-section 8207.2 in that the proposal consists of restoring a noteworthy example of turn-of-the-century architecture by one of the City's most prominent designers to a less intense residential use. Existing fire hazards and unsightly fire egress means will be eliminated.

As to the variance, the Board further concludes that by virtue of the existence and nature of the monumental townhouse-type masonry structures on the site, the subject site is affected by an exceptional situation or condition. Because of the size of the structure and the costs involved in either removing the existing compartmentalization of the interior space into small boarding house cubicles and of bringing the structure up to modern Code standards, strict compliance with the requirements of Sub-paragraph 7106.121 prohibiting structural alterations of buildings devoted to non-conforming use would result in practical difficulty to the applicant. Structural alterations in the nature of replacing a removed staircase from the westernmost portion of the structure from the main floor to the upper floors are required under the modern Fire Code and structural alterations in regard to placing

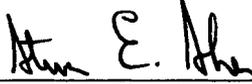
skylights on the upper levels of the structure are required under the Building Code to provide adequate light.

The Board concludes that the requested relief can be granted as in harmony with the general purpose and intent of the Zoning Regulations and without substantial detriment to the public good. Accordingly, it is ORDERED that the application is GRANTED in its entirety.

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