

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13884 of James and Zelba Worsley, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the prohibition against enlarging a structure devoted to a non-conforming use (Sub-section 7107.1) for a proposed addition to a rooming house in an R-1-B District at the premises 3123 South Dakota Avenue, N.E. (Square 4315, Lot 44).

HEARING DATE: December 15, 1982

DECISION DATE: December 15, 1982 (Bench Decision)

FINDINGS OF FACT:

1. The subject property is located on the southeast corner of the intersection of Brentwood Road and South Dakota and Rhode Island Avenues, N.E., at premises known as 3123 South Dakota Avenue, N.E. It is in an R-1-B District.

2. The subject lot is a trapezoid in shape containing approximately 5,784 square feet of land area. The site has approximately 106.15 feet of frontage on South Dakota Avenue, 3.72 feet of frontage on Rhode Island Avenue, and 85.03 feet of frontage on Brentwood Road. There is a fifteen foot building restriction line along Brentwood Road. The site is improved with a detached two and one-half story wood framed structure which occupies 1,018.38 square feet of the site. The structure is presently used as a rooming house. The site is generally flat.

3. To the north of the subject site across Rhode Island Avenue are single-family detached dwellings in the R-1-B District. To the south, east and west are single family detached dwellings in the R-1-B District. A church is located across South Dakota Avenue from the site.

4. A commercial corridor of C-2-A and C-1 zoning extends along both sides of Rhode Island Avenue between 13th and 24th Streets, N.E., one block from the subject site.

5. The applicant testified that the rooming house use began in 1950 under Certificate of Occupancy No. A-5449.

6. The applicants propose to construct an addition to the existing structure to continue and expand the rooming house from twelve rooms to twenty-nine rooms. The addition

will be of wood frame construction and will be two stories in height with a basement. It will occupy an additional 1,491.5 square feet of the site. The addition proposed is one and one-half times larger than the original structure.

7. The applicant testified that similar rooming house uses existed in the area, most of which are matter-of-right uses in the Commercial Districts along Rhode Island Avenue.

8. The applicant testified that the proposed expanded rooming house is needed to provide private bathroom facilities to each room. The expansion will then permit the applicant to compete more evenly with other area rooming houses. The applicant further testified that the present status of the rooming house causes a loss of business.

9. Of the present twelve occupancies, three are rented on a permanent basis. The remaining nine units are rented over-night or for other short periods of time.

10. An illuminated sign reading "J & Z Motel" was erected at the front entrance to the existing structure. The applicant stated the sign was installed to attract more roomers.

11. Four nine foot by nineteen foot parking spaces exist at the rear of the structure with access from Brentwood Road.

12. The R-1-B District requires a minimum lot area of 5,000 square feet and 5,784 square feet is provided. A minimum lot width of fifty feet is required and 106.15 feet is provided. A maximum lot occupancy of forty per cent or 2,713.6 square feet is allowed and 2,509.88 square feet is to be occupied. Four off-street parking spaces are required and four are provided. A minimum rear yard of twenty-five feet is required and twenty-five feet is provided. Minimum side yards of eight feet are required and side yards of nineteen feet and fifteen feet are provided.

13. A rooming house is not permitted in the R-1-B District as a matter-of-right or as a special exception. A rooming house is first permitted in the R-4 District.

14. The applicant filed a petition into the record signed by some thirteen residents from the neighborhood in support of the application.

15. The Office of Planning and Development, by report dated November 30, 1982, recommended denial of the application. The OPD found no practical difficulty related to the physical characteristics of the property which would support the requested variance. The property exceeds the minimum

lot area requirements of the R-1-B District and is not unusually shaped or developed. The site is structurally developed similarly to surrounding properties in the neighborhood. The OPD was of the opinion that approval of the variance would be in contradiction to the intent and purpose of the Zoning Regulations, as it is clearly the aim of Sub-section 7107.1 to prohibit the enlargement of a structure which is devoted to a non-conforming use. Such an enlargement, in the subject case would increase the permitted number of rooming units from twelve to twenty-nine and undoubtedly impact on the traffic situation experienced at the heavily traveled intersection of South Dakota and Rhode Island Avenues. The Board concurs with the recommendation of the OPD.

16. A petition and letters in opposition were filed into the record from nearby residents who complained that the subject use was a nuisance to the residents of the block. The opposition complained of litter and parking problems created by tourists. The opposition desired that the owners of the subject structure relocate their business elsewhere.

17. No written report was received from Advisory Neighborhood Commission 5A on the application.

18. At the completion of the applicant's case-in-chief, the Board denied the applicant for failure of proof either as a use or area variance. No testimony was taken from the ANC or the opposition present at the hearing.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the applicant is seeking a use variance, the granting of which requires the showing of an extraordinary condition of the property which creates an undue hardship on the owner. The Board concludes that there is no exceptional or extraordinary condition of the property. The nature of the improvements presently on the site and the size and configuration of the lot do not create a hardship for the owner. There is no probative evidence to show that the subject property can not be used as a single-family detached dwelling or some other permitted use in accordance with the requirements of the R-1-B District. A permitted use would also include continuation of the existing rooming house use at the level now permitted. The Board has no authority to force the termination of that use.

The Board concludes that, even if considered as an area variance, the applicant has failed to establish a practical difficulty inherent in the site that would support the relief requested. The Board further concludes that the requested relief can not be granted without causing

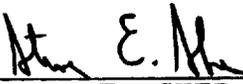
substantial detriment to the public good. A rooming house is not permitted in the R-1-B District. The proposed extension of the rooming house will more than double the number of rooms on the site, greatly intensifying a non-conforming use, and would have an adverse effect on the nearby residential properties.

The Board is further of the opinion that the relief can not be granted without substantially impairing the intent, purpose and integrity of the Zone plan. Accordingly, it is ORDERED that the application is hereby DENIED.

VOTE: 5-0 (Carrie L. Thornhill, Lindsley Williams, William F. McIntosh, Douglas J. Patton and Charles R. Norris to Deny).

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

ATTESTED BY:



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: _____

JUN 22 1983

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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