

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15369 of Jacques R. Thames, pursuant to 11 DCMR 3107.2, for a variance from the use provisions (Sub-section 320.3) to allow a six-room rooming house, basement through the second floor, in an R-3 District at premises 4618 - 4th Street, N.W., (Square 3249, Lot 109).

HEARING DATE: October 17, 1990
DECISION DATE: October 17, 1990 (Bench Decision)

FINDINGS OF FACT:

1. The property is located on the west side of 4th Street between Buchanan and Crittenden Streets and is known as premises 4618 4th Street, N.W. It is zoned R-3.

2. The site is rectangular in shape with a frontage of 17.64 feet along 4th Street and a depth of 91 feet for a total lot area of 1,205.24 square feet.

3. The property is improved with a two-story plus basement brick row dwelling. A fifteen foot wide public alley abuts the site to the rear and provides access to Crittenden and Buchanan Streets.

4. The area surrounding the site is developed primarily with single-family, two-story row dwellings. The Job Barnard Public Elementary School is located to the north of the site in the 4700 block of 4th Street.

5. The R-3 District permits matter-of-right development of single-family residential uses including detached, semi-detached and row dwellings. The applicant proposes to occupy the subject structure as a six unit rooming house. A variance from the use provisions is therefore required.

6. The applicant testified that the property was occupied as a rooming house at the time of purchase. The applicant has continued to operate a rooming house at the subject location since he purchased the building approximately two years ago.

7. The applicant testified that he was unaware of the need for licensing and zoning approval to continue the operation of a rooming house at the site until he was cited for violation of the Civil Infractions Act. The applicant

testified that he was not successful at having the tenants of the rooming house evicted through a hearing before the Landlord-Tenant Relations Committee. The applicant is attempting to bring the property into compliance through the instant application.

8. The applicant testified that the property has been on the market for sale as a single-family residence for approximately one year without success.

9. The applicant testified that he purchased the subject premises as an "investment property" and that the income derived from its use as a rooming house is necessary to cover the monthly operating expenses of the property and the mortgage payments.

10. The Office of Planning (OP) by memorandum dated October 10, 1990, recommended that the application be denied. The OP was of the opinion that the proposed use would have an adverse impact on the surrounding neighborhood due to traffic, noise and other conditions. The OP was further of the opinion that the applicant had not carried the burden of proof regarding a use variance.

11. Advisory Neighborhood Commission (ANC) 4D, by letter dated September 17, 1990, and a representative at the public hearing, opposed the granting of the application based on the opposition of area residents. The ANC recommended that the subject premises be returned to use as a single-family residence.

12. There was opposition to the application present at the public hearing and the record contains numerous letters and petitions opposing the granting of the application. The Board notes the issues and concerns expressed by the ANC and the opposition. However, the Board declines to address the specific concerns in the instant case for the reason that the burden of proof rests with the applicant as set forth in Section 3324.2 of the Zoning Regulations. The Board finds that the applicant has failed to meet the requisite burden of proof to justify the granting of a use variance.

CONCLUSIONS OF LAW AND OPINION:

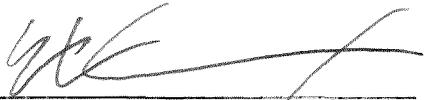
Based on the foregoing findings of fact and the evidence of record, the Board concludes that the applicant is seeking a use variance, the granting of which requires proof of an undue hardship upon the owner due to an exceptional or extraordinary situation inherent in the property itself. The Board concludes that the applicant has offered no persuasive evidence purporting to justify the granting of a use variance, and therefore, has not met the requisite burden of proof.

The Board further 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 Map. Accordingly, it is ORDERED that the application is hereby DENIED.

VOTE: 3-0 (John G. Parsons, Paula L. Jewell and Carrie L. Thornhill to deny; Charles R. Norris not present, not voting).

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

ATTESTED BY:


EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: NOV 19 1990

UNDER 11 DCMR 3103.1, "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."

15369order/LJP67

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



APPLICATION/APPEAL No. 15369

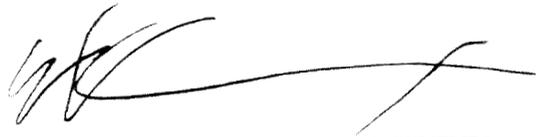
As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a copy of the Order in this case, dated NOV 9 1990 has been mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Jacques P. Thames
1369 Perry Place, N.W.
Wash, D.C. 20011

Cynthia A. Hubbard
4618 4th Street, N.W.
Wash, D.C. 20011

Robert L. Hiccinbotham
427 Buchanan St., N.W.
Wash, D.C. 20011

Joan Thomas, Chairperson
Advisory Neighborhood Commission 4-D
715 Kennedy Street, N.W.
Washington, D. C. 20011



EDWARD L. CURRY
Executive Director

DATE: NOV 9 1990