

PUBLIC HEARING--Sept. 30, 1964

Appeal #7904 Joan F. Kahn, appellant.

The Zoning Administrator District of Columbia, appellee.

On motion duly made, seconded and carried with Mr. Harps disqualifying himself the following Order was entered on October 27, 1964:

ORDERED:

That the appeal for a variance from the use provisions, side and rear yard requirements of the R-2 District to permit erection of apartment houses with FAR not to exceed 0.65 within area bounded by 55th, 58th and Dix Streets, N. E., lots 2 thru 11, inc. square 5228, lots 1, 2, 14, 15, 16, 17 and 800, square 5229 and lots 19 thru 29, inc. square 5230, be denied.

From the records and the evidence adduced at the hearing, the Board finds the following facts:

(1) This appeal to permit construction of seven three-story apartment buildings, in lieu of semi-detached single-family dwellings, the maximum use permitted by the R-2 District, is prosecuted entirely upon the contention that the existence of high tension power lines over portions of the several sites result in the peculiar and extraordinary difficulties envisioned by the statute. All of these structures proposed would be located in areas beyond the power lines. Much of the required off-street parking and required yard areas would be located under these lines.

(2) The R-2 zoning which obtains on the subject property is a part of a comprehensive plan extending uniformly for a number of blocks in several directions. Apartment house districts are also located within the general area all but one of which is considerably removed from the land under consideration. A number of single-family dwellings exist in square 5229, the central square of the three involved and a few such dwellings exist in the other two. Some of these dwellings are located in close proximity to the high tension lines upon which appellant relies. Many other single-family dwellings are located in the general area nearby as are a few nonconforming apartment buildings.

(3) Each of the seven sites upon which the proposed apartment houses would be located can be developed with single-family dwellings with no adverse impact resulting from the power lines relied upon by the appellant. While this is more of a conclusion than it is a finding of fact it is nonetheless supported by appellant's plans to construct apartment buildings thereon and the further fact that the structures are not located under any of these power lines.

(4) There was opposition to the granting of this appeal registered at the public hearing by residents and/or property owners in the area. The Northeast Boundary Civic Association also opposes the granting of this appeal.

OPINION:

We find that the appellant has not sustained his burden of proof that statutory hardship does in fact exist, or that the granting of this appeal will

not result in substantial detriment to the public good or substantially impair the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and map. We conclude also that his contention of sales resistance to the purchase of single-family dwellings properly planned upon this land as a whole is not supported by competent evidence.

To the extent that it may be considered pertinent and a proper consideration by this Board, we note also that appellant has sustained no damage since the evidence is that he purchased the properties under review and many other squares over which these same power lines exist, all subject to easements therefor and all for a minimal sum of \$5,000.00. From the records, but not a part of the testimony, the Board notes that this appellant is now in process of selling a small portion of these holdings to the City for public use at a sum several times the amount of the entire purchase price.