

Before the Board of Zoning Adjustment, D.C.

PUBLIC HEARING -- November 16, 1966

Appeal No. 8968 Dorothy A. Phillips, appellant.

The Zoning Administrator of the District of Columbia, appellee.

On motion duly made, seconded and carried with Mr. William F. McIntosh not voting, the following Order was entered at the meeting of the Board on November 29, 1966.

ORDERED:

That the appeal for permission to change a nonconforming use from a flat to a convalescent homse at 801 Aspen Street, NW., lot 21, square 2969, be denied.

FINDINGS OF FACT:

- (1) Appellant's property is located in an R-1-B District.
- (2) The property is improved with a detached brick bungalow type dwelling having two stories at a portion of the structure. The lot has a 70-foot frontage on Aspen Street and a depth of 140 feet and abuts a fifteen (15) foot public alley in the rear. The area of the lot is approximately 9,800 square feet.
- (3) The building contains thirteen (13) rooms, including nine (9) bedrooms, and garage space for two cars. The first floor contains a living room, dining room, kitchen, five bedrooms and a bath. The second floor contains four (4) bedrooms, a bath and a kitchenette.
- (4) The property was constructed about 1917 and is now used as a two-flat dwelling. A certificate of occupancy was issued in 1932 for this use.
- (5) It is proposed to use the dwelling as a convalescent home housing approximately fifteen (15) persons. In addition, there would be one registered nurse and two practical nurses.
- (6) A representative of Neighbors, Inc., testified at the public hearing in opposition to the granting of this appeal. In addition, the record contains petitions signed by fifty-eight (58) residents of the area opposing this appeal.

(7) Opponents object to the convalescent home as being more objectionable than the existing flat and questioned the Board's authority to consider the requested change.

OPINION:

Section 7104.2 authorizes the Board to change a nonconforming use, "to a use which is permitted in the most restrictive district in which the existing nonconforming use is permitted." Both flats and a convalescent home are first permitted as a matter of right in the R-4 District. Therefore, it is our opinion that the Board has jurisdiction to consider the requested change.

The subject property is located in an R-1-B District, the second highest residential district in the city. We are of the opinion that the character of the two uses is such that a convalescent home would have more of an adverse effect upon the character and future development of the neighborhood than flats. Therefore, the requested change must be denied.

Further, we hold that the proposed use is not a neighborhood facility which is reasonably necessary and convenient to the residents that it is designed to serve. The granting of this appeal would not be to the public good and would substantially impair the purpose and intent of the zone plan as embodied in the Zoning Regulations and Maps.