

Before the Board of Zoning Adjustment, D. C.

Application No. 11763 of D. C. Redevelopment Land Agency for reinstatement of BZA Order 10243, approved August 26, 1971, for variances from the minimum lot area, width, rear yard, and lot occupancy of the R-4 District and a variance from the use provisions of the C-M-1 District on lots 31 and 32 to permit re-subdivision of lots in accordance with redevelopment plan at 1815-17-21-25-29-31-35-37 9th Street, N. W., lots 822, 57, 58, 813, 28, 29, 31 & 32, Square 394.

HEARING DATE: November 20, 1974

DECISION DATE: GRANTED from the Bench at Public Hearing

FINDINGS OF FACT:

1. The applicant requests reinstatement of the Board's order GRANTING the request of this subject application, BZA Order No. 10243, dated August 26, 1971.

2. The applicant does not plan to alter from the proposal it presented to the Board in the proceedings of BZA Case No. 10243.

3. As of August 14, 1974, over 90% of the property subject to this application is owned by the applicant.

FINDINGS OF FACT INCORPORATED BY REFERENCE FROM THE BOARD'S ORDER IN APPLICATION NO. 10243.

1. The subject property is located partially in an R-4 District and partially in a C-M-1 District.

2. Square 394 is improved with approximately 51 row-type residential buildings and four (4) non-residential buildings. An alley measuring approximately nine (9) feet in width runs north and south the entire length of the square.

3. Appellant has acquired 60 percent of the properties in this square, eight (8) of which are the subject of this appeal. It is asserted that the approved Urban Renewal Plan shows this square to be rehabilitated as part of the first year action program under the approved Neighborhood Development Program.

4. In accordance with the objective of the Shaw Renewal Program to improve living conditions through rehabilitation of existing residential properties and to provide public facilities including the creation of more recreation and open space, appellant proposes to rehabilitate the residential buildings on Lots 822, 57, 58, 813, 28, 29, 31, and 32 and to create an interior block public park with play equipment for small children and sitting areas for adults.

5. It is proposed to reduce the depth of each lot by approximately twenty (20) feet and to develop the interior block which is to be separated from the housing by an architectural wall. Each dwelling is to be provided with a private rear yard. The proposed rehabilitation will not result in an increase in the number of dwelling units in the square.

6. The eight (8) vacant buildings; the subject of this appeal, are presently nonconforming structures with respect to their minimum lot area, minimum width of lot and size of courts. The proposal to create an interior block park would increase the nonconformity with respect to minimum lot area and would make both lot occupancy and rear yards nonconforming.

7. Lot occupancy will be increased to approximately 73 percent, exceeding the permitted 60 percent permitted under Zoning Regulations. Rear yards will be reduced to 18 feet, which is less than the 20 feet required. The lots are approximately 15.95 in width.

8. Appellant alleges that there is no parking presently existing and that none is to be provided for the eight (8) properties which are the subject of this appeal.

9. The basis for the requested relief is that of an "exceptional situation" as stated by the appellant.

10. Letters in support of the subject appeal was contained in BZA File No. 10243. No opposition to the granting of this appeal was registered at the public hearing.

11. The Board of Zoning Adjustment in executive session November 18, 1969, deferred action in this appeal. By letter dated November 28, 1969, the Board requested that appellant submit additional plans showing provisions for parking spaces for the subject buildings.

12. In an opinion issued by appellant's General Counsel, prepared December 11, 1969, and received by the Zoning Office December 15, 1969, appellant states in part as follows:

"A reading of the applicable provisions of the D. C. Code and the Zoning Regulations indicate that while BZA would not be required under the Law to grant the Agency's application for the variances set forth on Page 1 of this memorandum, BZA does not have the legal authority to require the Agency to provide more parking in the interior of Square 394."

The subject opinion is hereby incorporated, in its entirety, by reference and made part of the record in this subject appeal.

13. The Board amends this appeal to request a waiver of off-street parking pursuant to the request of appellant entered at executive meeting December 16, 1969.

14. The Board in executive session January 6, 1970 denied the appellant's appeal as amended 3-1-1, Hatton dissenting and Harps not voting.

15. The appellant by letter dated September 25, 1970 requested that the Board reconsider and/or rehear the subject appeal. The appellant also presented the proposed parking plans for the project. (See Exhibit Nos. 44 and 45).

16. The Board in executive session October 20, 1970 requested by letter dated November 10, 1970 that the appellant file a brief on the old record in order to bring the Board up to date.

OPINION:

We are of the opinion that the appellant have proven a hardship within the meaning of the variance clause of the Zoning Regulations and a denial of the requested relief would result in peculiar and exceptional practical difficulties and undue hardship upon the owner.

ORDERED: That the above application be GRANTED subject to the following condition:

1. That parking for the proposed project shall be as shown on BZA Exhibits No. 44 and 45.

VOTE: 3-1-0 (Lilla Burt Cummings, Esq. abstaining, Mr. Klauber not present).

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

ATTESTED BY: James E. Miller  
JAMES E. MILLER,  
Secretary to the Board

FINAL DATE OF ORDER: **NOV 22 1974**

THAT THE ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS ONLY UNLESS APPLICATION FOR A BUILDING AND/OR OCCUPANCY PERMIT IS FILED WITH THE DEPARTMENT OF ECONOMIC DEVELOPMENT WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER.