

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 12466, as amended, of Matthew M. Witenstein, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the lot area requirements (Sub-section 3301.1) to permit erection of a single family dwelling in the R-1-B District at the premises 5730 Utah Avenue, N.W., (Square 2313, Lot 18).

HEARING DATE: October 19, 1977  
DECISION DATE: November 2, 1977

FINDINGS OF FACT:

1. The subject lot is located at 5730 Utah Avenue, N.W. and is in an R-1-B District.
2. The subject lot is 75 feet wide, 55.08 feet long on one side and 47.83 feet long on the other, totalling 3,834.45 square feet. The lot is a record lot and is unimproved.
3. The applicant plans to construct a single family detached dwelling on said lot as his own residence. The applicant seeks a lot area variance of 1,165.55 square feet which is a 23.30 per cent variance. The contemplated residence meets the side and rear yard requirements as well as all the other requirements of the Zoning Regulations.
4. The applicant contracted to purchase the lot subject to his obtaining the subject variance from the Board of Zoning Adjustment.
5. The present owner, whose home is on the lot in front of the subject lot, purchased both lots in 1964. Both lots were included in the one sale.
6. Persons in opposition to the application have referred to the subject lot as a rear yard but the subject lot is a lot of record and its existence as such predates the current Zoning Regulations.
7. The present owner put the lot up for sale because it is too difficult for him to maintain, including cutting the grass to the curb line of Nebraska and Utah Avenues.

8. The applicant plans to construct a two story, three bedroom house in keeping with the neighborhood tradition. The building will be set back thirty-five feet from Utah Avenue.

9. Advisory Neighborhood Commission 3G filed no recommendation on this application.

10. The application was opposed by the Chevy Chase Citizens Association and six property owners within the immediate area of the subject lot. There was also a petition with the signatures of twenty-seven neighbors who opposed the application. The grounds for the opposition were that the variance sought was too great, the granting of the variance would result in a house on a tiny lot which would not be in harmony with the neighborhood, that purchasers of homes in the immediate area had purchased and improved their homes relying on the integrity of the zoning plan of the area, that granting the variance would create a precedent that would become deleterious to the character of the neighborhood, that the proposed house would be on a knoll that would intrude upon the privacy of the surrounding houses, dominate the area and cut off the esthetic views the neighbors now enjoy, that the proposed house would create additional congestion and traffic and that the proposed house would decrease property values in the neighborhood.

11. The square within which the property lies is triangular in shape, having frontage on Utah Avenue, Nebraska Avenue and Northampton Street. The row of houses which fronts on Nebraska Avenue include the property of the present owner of the subject lot. This property is the only such property on that frontage that is divided into two record lots. Since the area of the remaining lots is less than 10,000 square feet, it is not now permissible to sub-divide two conforming lots out of any of the existing lots.

12. The subject lot is located in an area which generally slopes down along Nebraska Avenue from northeast to southeast, and is relatively flat along Utah Avenue. The topography is such that there is a continuous gentle slope in the area, and the proposed house would not materially alter that existing condition.

#### CONCLUSIONS OF LAW

The Board concludes that the requested variance is an area variance the granting of which requires a showing of a practical difficulty stemming from the property itself. The subject lot is a lot of record that existed prior to the

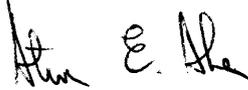
current Zoning Regulations. It is zoned for residential purposes. The Board concludes that there is no other use to which it can be put and denial of the application would effectively deprive the owner of any use of that lot. The Board concludes that the proposed house would generally be in character with the kind of houses otherwise found in that area, as no variances other than lot area, are required. The Board notes that there is little or no vacant land left in this area, and that the Board is therefore not setting a precedent for approving houses on lots that are now considered substandard. The Board concludes that the requested variance can be granted without substantial detriment to the public good and that the construction of a house on this lot would not adversely effect the legitimate rights of surrounding property owners. Accordingly, it is therefore ORDERED that the application is GRANTED.

VOTE:

3-1 (Walter B. Lewis, Chloethiel Woodard Smith and William F. McIntosh to grant, Leonard L. McCants to deny, Charles R. Norris not present, not voting)

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

ATTESTED By:

  
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STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER:

20 DEC 1977

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 HOUSING AND COMMUNITY DEVELOPMENT WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER.