

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 12535 of Columbia-Palace Corporation, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the requirement that a building be set back from the lot lines above the 110 foot level six inches per foot of height above 110 feet (Paragraph 5201.22) to permit the construction of an office and retail building without setback in the C-4 District at the premises 1301 Pennsylvania Avenue, N.W., (Square 254, Lots 37, 38, 44, 801, 802, 828 and 829).

HEARING DATE: December 13, 1977

DECISION DATE: December 13, 1977 (Bench Decision)

FINDINGS OF FACT:

1. The subject property is located at the northwest corner of 13th and E Streets, N.W. and is in a C-4 District.

2. At present the subject property, except for lot 44, is being used as a parking lot. The Loews Palace Theatre building is located on Lot 44.

3. The subject square is developed exclusively with commercial buildings which include the National Theatre building, the Munsey building and the National Press Building.

4. The proposed building will consist of ten floors of office space over two floors of retail with two levels of parking below grade. The entrance to the garage would be on 13th Street.

5. Section 5201.22 of the Zoning Regulations states in the C-4 District buildings or other structures may be erected to a height not exceeding 130 feet, provided:

- (a) Such buildings or structures face or abut a street not less than 110 feet wide between building lines; and
- (b) Above the 110-foot level all exterior walls facing or abutting a lot line which is the boundary of a

district requiring a lower height of building than is permitted in the C-4 District, a street or alley shall be set back from the lot lines abutting such boundary, street, or alley six inches for each foot of height above such level.

6. The variance which has been requested will allow the proposed building to rise to a height of 130 feet on the lot lines abutting the surrounding streets without any setback.

7. The building is located within the boundaries of the Pennsylvania Avenue Development district. It thus falls within the planning jurisdiction of the Pennsylvania Avenue Development Corporation (PADC). PADC has adopted a development plan known as the Pennsylvania Avenue Plan, 1974, which became effective on May 19, 1975. PADC is empowered by the provisions of the Pennsylvania Avenue Development Corporation Act, 40 U.S.C. Sec. 871 et seq., to establish restrictions, standards, and other requirements that will assure conformance to the plan.

8. The proposed building is the first significant, private development along Pennsylvania Avenue since adoption of the Pennsylvania Avenue Development Plan.

9. In the exercise of its authority, PADC has developed a plan for Square 254. A building design was submitted to PADC by the applicant, which conformed with the setback requirements for the C-4 zone. PADC deemed this design not to be in conformity to the PADC Plan which calls for a uniform cornice line of 135 feet for buildings fronting on Western Plaza.

10. PADC testified in support of this application at the hearing.

11. The applicant, in proposing to construct this building on the subject property, is confronted with an unusual and unique circumstance by reason of the design review authority conferred upon PADC. Certification by PADC must be a matter of record prior to the issuance of a building permit.

12. The practical difficulties encountered by the applicant include the following:

- (a) PADC did not approve a plan submitted in accordance with the present zoning, but supports the plan before the Board.
- (b) PADC is seeking a change in the present zoning regulations to eliminate the setback requirements for the entire Pennsylvania Avenue Development Corporation area. A public hearing on that text amendment will not be held until February, 1978.
- (c) Applicant's construction timetable requires it to file for a building permit in January, 1978. Applicant had demonstrated that a failure to remain on schedule could result in the loss of financing, the loss of the major tenant, and the loss of the ability to purchase the land.

13. The intent of Paragraph 5201.22 of the Zoning Regulations is to restrict the height of buildings and allow light and air to reach street level. Because of the building's unique location which fronts on Western Plaza, a large open space, the building, as designed, will not impair the amount of light and air.

14. No opposition was registered at the public hearing.

15. The Municipal Planning Office, by report dated December 7, 1977, recommended approval of the application.

16. Advisory Neighborhood Commission - 2C filed no recommendation on the application.

CONCLUSIONS OF LAW:

Based on the record the Board concludes that the requested variance is an area variance, the granting of which requires the showing of a practical difficulty. The Board concludes that such a difficulty has been demonstrated and that the requested variance will not have an adverse impact on the open space, air and light in the subject area and it will allow for design

flexibility within the permitted FAR. The Board concludes that the requested relief can 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. Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the following conditions:

- a. The height of the building is not to exceed 130 feet as measured in accordance with the Zoning Regulations.
- b. The building is to conform to the plan as submitted to this Board and approved by PADC.

VOTE: 4-0 (William F. McIntosh, Chloethiel Woodard Smith, Charles R. Norris and Leonard L. McCants to grant).

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

Attested by: 
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 29 DEC 1977

THAT THE ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS ONLY UNLESS APPLICATION FOR 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.