

feet wide along 13th Street but begins to narrow midway through its depth and is less than ten feet wide at the rear, at Kentucky Avenue. Lot 800 is improved with a small four unit brick apartment building. The building is a non-conforming structure in the R-4 District.

4. Lot 801, 212 13th Street, S.E., is approximately 1127 square feet in area. It is also a through lot and has sixteen feet of frontage along 13th Street and has approximately nineteen feet along Kentucky Avenue. The lot is now vacant but was improved with a frame dwelling until 1952.

5. Lot 802, 210 13th Street, S.E., is approximately 950 square feet in area. It is sixteen feet wide and is improved with a two story row dwelling.

6. The area surrounding this site is predominately residential. Two and three story row dwellings are the dominant housing type although small apartment buildings are also found in the area. Most of this section of the city is zoned R-4.

7. The applicant proposes to construct a three story, single family row dwelling on lot 801. When resubdivided the lot would have an area of approximately 1,138 square feet, a width of sixteen feet and with the revised proposed dwelling a lot occupancy of sixty per cent. The R-4 District requires a minimum of 1800 square feet of lot area, a width of eighteen feet, and a maximum lot occupancy of sixty per cent. Under the revised site plan the applicant would provide for off-street parking. The parking spaces would be nineteen feet by nine feet on the inside edge of the parking spaces and 17.5 feet by nine feet on the outside edge of the parking space.

8. The issues involved in this application are concerned with adjusting the lot lines of lots 800 and 802 to coincide with the structures upon them and the proposed new construction on lot 801. The dwelling on lot 802 encroaches upon Lot 801 by approximately 1.8 feet. Although constructed on the lot lines according to the deed description, the apartment building on Lot 800 has, in effect a side yard of 1.8 feet adjacent to Lot 801. The lot lines were incorrectly drawn when Record Lot 4 was subdivided into tax lots, 800, 801 and 802. Lot 801 must be converted to a lot of record before new construction can take place and the applicant wishes to correct the lot lines to eliminate the existing encroachment.

9. Lot 801 does not meet the minimum requirements of the R-4 District, and although the proposed lot line adjustment would add approximately nineteen square feet it would remain less than the required 1800 square feet.

10. Neither the structure on lot 800 nor the structure on lot 802 meets all the minimum requirements of the R-4 District under existing lot dimensions and they would remain non-conforming after the transfer of land to adjust the lot lines.

11. The applicant is the sole owner of lots 801 and 802. He is a partner in the ownership of lot 800. The applicant testified and the Board finds that the non-conforming structures on lots 800 and 802 will not be altered.

12. A frame dwelling on Lot 801 was razed in 1952. Paragraph 3301.3 of the Zoning Regulations states that if as of November 1, 1957 an unimproved lot in single ownership, when not adjoined by another unimproved lot in the same ownership, can be built upon if, both the lot area and width are at least 80% of the minimum requirements of the District in which it is located and all other requirements are complied with. Applying the guideline of this paragraph, the applicant would still require a variance from the minimum lot area requirements of the R-4 District of three hundred two square feet. The applicant testified that he had been advised by the Zoning Administrator's Office that he could construct a row dwelling on lot 801 under Sub-section 7108.2 of the Zoning Regulations but that he would still require variances. The Chairman ruled that Sub-section 7108.2 was not pertinent to the application since said Sub-section concerns itself with the restoration of damaged structures. In the instant application the Board was concerned with an unimproved lot.

13. Many lots in the immediate neighborhood do not meet the minimum lot area and lot width requirements of the R-4 District. Out of the fourteen lots in Square E-1015 only two are 1800 square feet or larger. Both of these are improved with multiple unit dwellings.

14. All of the lots which front on 13th Street, S.E. are through lots. None have provisions for off street parking.

15. The Municipal Planning Office, by report dated December 8, 1977, recommended approval of the application, as amended, on the grounds that since the subject proposed row dwelling would be on a through lot, there would be no overcrowding or impairment of light, air and ventilation and that the adjoining and nearby properties would not be adversely affected. The Board so finds.

16. The Capitol Hill Restoration Society, Inc., by report dated December 13, 1977, recommended approval of the application. Neighborhood opinion was mixed. Those favoring the application preferred a one-family dwelling to a vacant lot which had become a trash depository. Some preferred a subsidized housing development in the area, or conversion of a vacant lot into a garden. The CHRS Inc., further reported that even though lot 801 could be combined with lot 800 to compensate for the deficiencies of the latter, it was held that to require that action of the current owners would be unfair in that, first, they did not create the situation and second, if those two property were currently in separate ownership, the owner of lot 801 would have a prima facie case for variances. This applicant should not be treated differently.

17. Advisory Neighborhood Commission 6B, by resolution dated December 6, 1977, endorsed the granting of the requested variances in order to avoid a gap of 1.8 feet between the present structure at 214 13th Street, S.E. and a structure the owners may build at 212 13th Street, S.E.

18. There was no opposition to the application.

CONCLUSIONS OF LAW:

Applicant seeks variances which require a showing of a practical difficulty stemming from the property itself. The Board finds that the shape and shallowness of the subject property and other exceptional situations enumerated in the findings of fact create such a difficulty in support of the subdivision of three lots and the construction of a row dwelling.

As to the parking space size variance the Board finds it is minimal and the granting of it is more beneficial than to require the applicant to park on street or to modify the proposed structure in such a way to cut off light and air.

The Board concludes that the granting of the relief herein will further the intent, purpose and integrity of R-4 zoning. The

area is designed for row dwellings. A vacant lot will be eliminated which has been an eyesore to the neighborhood. Accordingly, it is ORDERED that the application is GRANTED.

VOTE: 3-0 (William F. McIntosh, Charles R. Norris and Leonard L. McCants to grant, Chloethiel Woodard Smith not voting, not having heard the case).

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

ATTESTED BY: _____


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: _____

16 MAR 1978

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