

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 12606, of Georgetown Associates Limited Partnership and Georgetown Development Limited Partnership, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the prohibition against parking within ten feet of a wall of a multiple dwelling, which has openings for light and ventilation (Paragraph 7205.22) to permit a five story addition to an existing apartment house in the W-1 District, at 1024 Wisconsin Avenue, N.W. (Square 1188, Lot 119).

HEARING DATE: March 15, 1978
DECISION DATE: April 5, 1978

FINDINGS OF FACT:

1. The subject property is improved by an apartment house in the W-1 District, at 1024 Wisconsin Avenue, N.W. Applicants have a permit to construct a five story addition containing twelve units, to that existing apartment house. They seek relief from the parking space location requirements of Section 7205.22 of the Zoning Regulations in order to permit the location of required parking spaces within ten feet of a wall of a multiple dwelling, which has openings for light and ventilation.

2. The Zoning Regulations require the applicants to provide a minimum of three off-street parking spaces in connection with the proposed five story addition to the existing dwelling.

3. At the public hearing, applicants amended their application by requesting in the alternative, a variance from the required provisions of Section 7202 of the Zoning Regulations so as not to provide any off-street parking accessory to the new structure.

4. The subject site has a lot area of 17,361 square feet and fronts on Wisconsin Avenue, N.W. It is bounded on the south by a public alley known as "West Alley". It is bounded on the west by the backs of row dwellings fronting on a 20 foot alley known as Cecil Place. Cherry Hill Lane lies to the north and terminates at its eastern end at a ten foot alley which runs north into Grace Street.

5. Subsequent to their purchase of the property, to which title was taken in June 1977, applicants applied for and received approval to expand the existing apartment buildings, which included plans to build three parking spaces, as required by the Zoning Regulations on the south side of the site (West Alley). In the plans submitted with the application for the permit, the parking spaces, which were to be located next to an existing retaining wall in West Alley, met the location requirements of Section 7205.22 of the Zoning Regulations. The Building permit was duly issued on October 4, 1977.

6. The physical characteristics of the site are such as to make the location of required off-street parking extremely difficult. The sharp slope of the site, its shape and high elevation, and the presence of the existing building combine to result in only one location on the site where required off-street parking can be located such that it meets all of the requirements of the Zoning Regulations, including the distance and accessibility requirements. This location was the one shown on the plans submitted for the building permit.

7. After the drawings were filed for a permit and prior to the issuance of that permit, construction of a retaining wall in the public space was commenced by another private property owner who did so at the direction of the D.C. Department of Transportation. This wall was built along the north edge of the paved portion of West Alley. Applicants had no knowledge, prior to their application for a building permit and prior to the issuance of that building permit, that the District of Columbia Government had previously approved and directed the construction of a retaining wall. This new retaining wall prevents access to the area, which applicants contemplated using for their off-street parking.

8. The District of Columbia Government approved the plans submitted by the applicants and issued a building permit on October 4, 1977. On October 26, 1977, applicants received a verbal stop order on their building permit from the District of Columbia Government.

9. Following issuance of the stop order, several discussions took place between applicants and officials with the D.C. Department of Transportation, the Acting Chief of the Zoning Regulations Division, the Permit Branch, and the Commission on Fine Arts. The purpose of those discussions was to review the applicants' site plan in order to determine alternative courses of action.

10. In order to provide access to the original spaces, applicants would be required by the Department of Transportation to widen the entire length of the alley because the new wall was built in public space. This in turn would require demolition of the entire new wall, replacement of all street lights, and erection of an entirely new wall on private property, which would rise to a height of twenty feet. This additional work would work a financial hardship upon applicants in that it would entail an additional expenditure of \$200,000, the cost of which must be spread over twelve dwelling units.

11. There is an additional consideration, which mitigates against tearing down the entire wall, widening the alley, and constructing a new wall. There presently exists in the alley an old rubble wall, which is of historic value, and according to the Commission on Fine Arts considerably improves the appearance of this area. The Commission on Fine Arts has pointed out that construction of a new wall by applicants will endanger this rubble wall. It is in order to preserve this rubble wall that the Commission on Fine Arts suggested that the applicant seeks alternative means to meet their parking needs.

12. The Government of the District of Columbia reinstated the building permit on November 4, 1977.

13. Because of the above-described physical characteristics of the site, there is only one alternative available to the applicants to locate off-street parking other than on the original location. The applicants propose to locate one parking space on the west side of the new building against which that space will abut and the two remaining spaces on the north side of the existing apartment building approximately three feet from the north wall of that building and abutting the north property line. All spaces will be located within the property line. Access to the parking will be by way of Cecil Place to the west of the property and through Cherry Hill Lane.

14. The subject windows affected by the proposed parking spaces have sills that are approximately seven feet above the parking area.

15. The proposed parking spaces, if approved by the Board, will also permit preservation of the rubble wall.

16. Other than the distance of their location from the building, the parking spaces will fully comply with all of the requirements for off-street parking. The number of spaces are the minimum number required, their size will be in accordance with the Zoning Regulations, parking and maintenance of spaces will be in accordance with the Zoning Regulations, the spaces will be accessible at all times, as required, and all spaces are completely within the lot upon which the structure is located.

17. The Department of Transportation testified at the public hearing in support of the application based on the exceptional physical characteristics of the subject terrain.

18. The Citizens Association of Georgetown and some of the residents of Cecil Place and Cherry Hill Lane opposed the granting of the application on the grounds that the planned new construction would tower over the houses and gardens of the small historic houses in the subject area; the developers would be impairing the right of the abutting property owners by not providing the required rear yard; the project is completely surrounded by alleys not fit for ingress and egress of the subject parking spaces; the hardship herein is purely a financial one which is no grounds for granting a variance and adopting the use of Cherry Hill Lane as a conduit would be tantamount to placing cars on people's front stoops and gardens.

19. As to the concerns of the parties in opposition, the Board finds that what is before it is a variance regarding the location of parking spaces, not the construction of the addition itself. The Board finds that the use is permitted as a matter-of-right, and that the addition complies with all of the requirements of the Zoning Regulations except for the location of the parking spaces. The Board finds that the slope of the lot, the location of existing improvement and the construction of the wall on the south side of the lot combine to create a situation where there is no reasonable location for the twelve required parking spaces which could be utilized without the granting of the variance. The Board finds that the location of the three spaces on Cherry Hill Lane will have a negligible impact on the alley system, and that even though the access to the parking spaces is extremely narrow, the fact that only three spaces are involved means that any problems will occur infrequently.

20. Advisory Neighborhood Commission 3A filed no report on the application.

21. As to the alternative relief requested of not providing the required parking, the Board finds that the Georgetown area is one where parking spaces are extremely limited, and that there is extensive competition for existing on-street and off-street parking. The Board finds that the granting of a variance to eliminate the three spaces would add to congestion in the area, and would not be an appropriate solution.

CONCLUSIONS OF LAW:

Applicants seek an area variance, the granting of which requires the establishment of a practical difficulty stemming from the property itself. The Board concludes that the sharp slope of the subject site, its shape and high elevation, the presence of the existing building and the wall constructed on public space to the south of the lot establish the practical difficulty.

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 and Map.

The applicants requested, in the alternative, that a variance be granted from the requirement that they provide off-street parking spaces. The Board concludes that such relief cannot be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan. The Board takes judicial notice of the congested traffic and on-street parking conditions in Georgetown where the subject property is located. The Board concludes that a waiver of the off-street parking requirements is not appropriate in this application.

Accordingly, It is ORDERED that the application as originally applied for is GRANTED.

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VOTE: (Walter B. Lewis, 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: 17 MAY 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
WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS
ORDER.