

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 12839, of Robert and Sally Kicherer, et al, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the driveway width requirements (Sub-section 7206.7) to allow an access driveway less than fourteen feet in width for a proposed new office and retail building in a C-3-B District at the premises 1708 Connecticut Avenue, N.W. (Square 92, Lot 90).

HEARING DATE: January 17, 1979
DECISION DATE: February 28, 1979

FINDINGS OF FACT:

1. The subject site is located on the west side of Connecticut Avenue, seventy-five feet northwest of its intersection with R Street, known as 1708 Connecticut Avenue, N.W.

2. The site is currently unimproved, is used as a parking lot and is topographically flat. The lot has a width of only nineteen feet at the front on Connecticut Avenue.

3. Abutting the subject site to the north is a clothing store followed by other retail-office use in the C-3-B District. To the east across Connecticut Avenue there are commercial and office uses also in the C-3-B District. To the south, abutting the site is a barber shop and other retail uses. To the west, there are mixed retail, residential land uses in the R-5-B District.

4. The applicant proposes to construct a new office and retail building on the subject site. The building will have a gross floor area of approximately 9,000 square feet, equivalent to an FAR of 3.47.

5. Three parking spaces are required under the Zoning Regulations for the proposed use. The statement of the applicant filed with the application, marked as Exhibit 1A of the record, the computations of the Zoning Regulations Division, marked as Exhibit 6 of the record, and the report of the Office of Planning and Development, marked as Exhibit 24 of the record, all indicate that four parking spaces will be provided. The testimony of the applicant at the hearing and the site plan submitted by the applicant at the hearing indicate that only three spaces will be provided. Based on the representation of the applicant at the hearing, the Board finds that three spaces are to be provided in the building.

6. Sub-section 7206.7 of the Zoning Regulations states that, driveways which provide accessibility to parking spaces, accessory to any structure other than a one-family dwelling or a flat shall be not less than fourteen feet in width and must have a maximum grade of not more than twelve percent with a vertical transition at intersections.

7. The access to the parking spaces will be by way of public alleys which connect to 21st Street, N.W. The public alleys which may be negotiated by automobiles do not abut the subject site. At present, there is a four foot wide public alley which connects the site to the wider alley to the north.

8. In order to provide access to the site, the applicant is proposing to provide a driveway by way of easement over adjoining property. One easement has been recorded with the owner of 2011 R Street, N.W. and another will be recorded for 1710 Connecticut Avenue, N.W. which is owned by the applicant in this case. The driveway will be more than fourteen feet wide for most of its length, but because of the configuration of the lot and the nature of improvements in the area, the driveway will be only twelve feet wide at one point. A variance of two feet is thus required. The driveway will comply with the grade requirements and needs no variance in that regard.

9. The only other way to provide access to the site would be by way of driveway from Connecticut Avenue. This would occupy fourteen of the nineteen foot width of the lot, and would leave only five feet for the width of the building, thus creating a practical difficulty for the lot.

10. The driveway as proposed will serve the three spaces for the existing building.

11. The Office of Planning and Development, by report dated January 10, 1979, and by testimony at the hearing, recommended that the application be approved. The OPD reported that the variance can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations and Maps. The Board so finds. The OPD also reported that the Fire Department had advised it that an existing alley having a width of twelve feet may provide access to new development, but that if new development requires the inclusion of a new alley, that new alley must be at least twenty feet in width. The Board so finds.

12. The alleys in this square have existed for many years, prior to the adoption of the Zoning Regulations. These alleys serve the existing commercial uses in this square.

13. Advisory Neighborhood Commission - 2B, opposed the application, on the grounds that the building should not be approved prior to the Zoning Commission's decision on the Dupont Circle rezoning case, that there is traffic in the alley, and that there would be a fire safety problem.

14. The Dupont Circle Citizens Association opposed the variance on the grounds that the public alley is not wide enough to accommodate the traffic and that there is a fire safety problem.

15. As to the issues and concerns of the Advisory Neighborhood Commission, which are also relied upon by the Dupont Circle Citizens Association, the Board finds that the addition of three parking spaces and the resultant traffic therefrom is so minimal as to have no significant impact. The Board finds that the issue before the Board is the width of the alley, not the design or compatibility of the building itself. The Board finds that the issue of fire safety also is not before the Board, although the Board notes the position of the Fire Department as stated by the OPD and the testimony of the applicant regarding means of fighting fires. The Board further finds that it is bound to decide a case on the basis of the record before it based on the regulations in effect on the date the case is decided. The Board notes that the property was zoned C-3-B as of the date of the decision.

CONCLUSIONS OF LAW AND OPINION:

The requested variance is an area variance, the granting of which requires the showing of a practical difficulty. The Board is of the opinion that the existence of the twelve foot wide alley system in Square 92 prior to the adoption of the Zoning Regulations, the shape of the lot and the location of surrounding improvements, the impossibility of providing access to the proposed parking spaces via another route and the problems created by access to parking from the front of the lot constitute a practical difficulty upon the owner and merit relief from the Board.

The Board concludes that it has accorded to the ANC the "great weight" to which it is entitled and has addressed all of its concerns. The Board further concludes that the requested variance 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.

Accordingly, it is ORDERED that the application is GRANTED.

VOTE: 4-0 (Theodore F. Mariani, Chloethiel Woodard Smith, Charles R. Norris and William F. McIntosh to GRANT; Leonard L. McCants not voting, not having heard the case).

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

ATTESTED BY: Steven E. Sher
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 30 MAR 1979

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.