

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 12859 of Riggs Leasing Inc., pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the lot width requirements (Sub-section 3301.1) to subdivide the subject lot in an R-1-A District at the premises 5008 Lowell Street, N.W., (Square 1435, Lot 83).

HEARING DATE: January 24, 1979
DECISION DATE: February 28, 1979

FINDINGS OF FACT:

1. The subject property is located at 5008 Lowell Street, N.W., with street frontage on Lowell and Klingle Streets, N.W. The subject lot is located in an R-1-A District.
 2. The site is 19,308 square feet in area and is improved with one single-family structure and a swimming pool. The pool is not currently connected to water pipes and other plumbing and electrical sources and is, therefore, not functional. The width of the subject lot on Lowell Street is 81.54 feet; on Klingle Street it is seventy feet.
 3. Adjacent to the property on Lowell Street are single-family detached structures, both on lots over 10,000 square feet. Both properties have lot widths of eighty feet or more. Adjacent to the subject property on Klingle Street are two unimproved lots. These lots are 8,400 and 9,914 square feet in area, respectively. One of these lots has a width of seventy feet; the other contains slightly over eighty-two feet in width.
 4. On Lowell Street, both east and west of the site, and to the north from the site toward Millwood Lane, the majority of houses and lots are large, with lot areas and lot widths being considerably in excess of the R-1-A minimum of seventy-five hundred feet and seventy five feet respectively. On Klingle Street, lots to the east of the subject site are close to or slightly above the required lot area and lot width minimums. To the west on Klingle Street, and to the south from the site (toward Cathedral Avenue and Weaver Terrace), lot sizes and widths are smaller than those above. Of the six R-1-A lots on Klingle Street which extend to the west to an R-1-B zone District line, only one lot contains at least 7,500 square feet in area. None of the six lots, including the lot immediately adjacent to the west, contains the seventy-five feet of lot width required in the R-1-A District.
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5. To the north and east, the predominant zoning district is R-1-A. To the south and west, including the area immediately across Klingle Street from the subject site, the zoning district is R-1-B. The neighborhood is almost exclusively residential in use.

6. The applicant proposes to subdivide the subject property into two lots of record and to erect a single-family detached structure on that portion of the site, to the south, which currently is improved only with the swimming pool. The southernmost of the two lots, the Klingle Street lot, would contain 8,400 square feet and have a lot width of seventy feet. The other lot (Lowell Street) would consist of 10,908 square feet and have a lot width of 81.54 feet.

7. The two proposed lots of record meet all the requirements of the R-1-A District with the exception of the minimum lot width requirement for the Klingle Street lot. The R-1-A District requires seventy-five feet for lot width; the applicant proposes seventy for the Klingle Street parcel. This requires an area variance of seven percent. No lot area variance is needed since the lot contains 8,400 square feet, an excess of 900 square feet above the required minimum. The Lowell Street lot would comply with all the requirements of the Zoning Regulations.

8. The two proposed lots were both previously lots of record (Lots 46 and 14), both with identical lot area and width dimensions to those proposed by the applicant. At that time, the southernmost lot was unimproved, as were then and now are the two adjacent lots on Klingle Street. These two record lots were subdivided into one lot so that the swimming pool could be erected on the southernmost lot.

9. The applicant recently sold the northernmost lot (old Lot 46) and seeks to construct a dwelling on the southernmost lot (old Lot 14).

10. The applicant testified at the public hearing that both proposed lots would be at least as large and wide as most lots in the block and the neighborhood and that the Klingle Street lot, the subject of the variance would be larger and wider than almost every other lot on Klingle Street. The Board so finds.

11. The applicant testified that the existing unsubdivided lot is narrow in relationship to its size, as well as to surrounding lots, and that an otherwise buildable lot, the Klingle Street lot, currently improved only by a disconnected swimming pool, is essentially vacant and unproductive. The Board so finds.

12. The applicant cited certain sections of D.C. Act 2-283, the Comprehensive Goals and Policies Act of 1978, in support of its proposal, including sections referring to the promotion of good housing of all types and prices and to the promotion of the use of vacant land for the maximum benefit of the City.

13. Advisory Neighborhood Commission 3D made no recommendation concerning the application.

14. Several neighboring property owners testified in opposition to the application on the grounds that (1) variances diminish the high residential quality of a neighborhood, (2) that residents should have superior rights over speculators who will not live in the neighborhood and who, as in the subject application, purchased the property with full knowledge that the subject property, Lot 14, was not a buildable lot without a variance from the BZA (3) that the rendering was not an absolute, final plan of a house that would be constructed on the subject property and proper questioning on suitability and conformity was therefore denied to them, (4) fears about erosion problems and, (5) the swimming pool on the Klinge Street lot was being lost for community use.

15. In replying to the concerns of the neighboring property owners, the Board finds that the issues of architectural style and land speculation are issues not within the jurisdiction of the BZA. As to the erosion issue, that matter should be addressed to the proper agency of the District of Columbia Department of Environmental Services. The Board, for good cause shown, and pursuant to the authority under Paragraph 8207.11 of the Zoning Regulations, may grant variances that, in its opinion, will not cause substantial detriment to the public good and will not substantially impair the intent, purpose and integrity of the zone plan. In this case, the Board so finds. As to the swimming pool issue, the pool is the private property of the owner who may or may not gratuitously bestow its use for the neighborhood.

CONCLUSIONS OF LAW AND OPINION:

Based on the record the Board concludes that the requested variance is an area variance, the granting of which requires a showing of practical difficulty stemming from the property. Under a strict application of the Zoning Regulations, the subject site could not be subdivided as a matter of right into two lots of record, even though the two lots would contain an excess of 5,000 square feet in area above that otherwise required for the two lots and even though the two lots previously were two lots of record which were identical in every way to those being proposed. The Board notes that the above situation has occurred solely because a swimming pool was erected on the subject property and that,

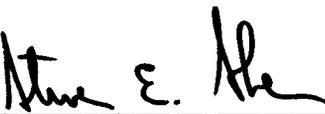
at present, the pool is disconnected and nonfunctional, that the two lots created are similar or larger in size to those in the immediate area and that the southernmost lot on Klinge Street is, for all intents and purposes, vacant and that it should be put to productive use.

The Board concludes that the practical difficulty is inherent in the property itself, in terms of its narrowness in relation to its size as well as to surrounding properties and to its status as "improved", namely with a disconnected swimming pool, which renders the land nonproductive and creates a practical difficulty to its owner. Again, the variance is minimal. The Board further concludes that the variance can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan. Accordingly, it is ORDERED that the application is GRANTED.

VOTE: (Theodore F. Mariani, William F. McIntosh, Charles R. Norris and Chloethiel Woodard Smith to grant, Leonard L. McCants not voting, having recused himself).

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

ATTESTED BY:



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER:

21 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.