

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 12872, of 1137 - 19th Street Limited Partnership, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Sub-section 3308.2 allowing two roof structures and pursuant to Paragraph 8207.11 for a variance from the rear yard requirements (Sub-section 5303.1) in a C-4 District to construct an office building at the premises 1137-45 - 19th Street, N.W. (Square 140, Lots 871, 13 and 14).

HEARING DATE: February 14, 1979  
DECISION DATE: March 7, 1979

FINDINGS OFFFACT:

1. The subject property is located on the east side of 19th Street between L and M Streets, N.W., and is known as 1137-45 19th Street, N.W. It is in a C-4 District.
2. The subject property which is known as 1137 19th Street, N.W. is improved with a two story parking garage.
3. The applicant proposes to demolish the garage and construct a multi-story office building with an open plaza extending approximately fifty feet into the building site.
4. The proposed construction constitutes an addition to the existing office retail building located at 1145 - 19th Street.
5. Under Sub-section 8103.3 any combination of commercial occupancies separated in their entirety erected or maintained in a single ownership shall be considered as one structure.
6. The application was advertised for a special exception under Sub-section 3308.2 to allow two roof structures and for a rear yard variance (Sub-section 5308.1). By a revised memorandum, dated February 12, 1979, from the Zoning Regulations Division, Department of Housing and Community Development, the Board finds that the special exception for the roof structures is no longer required for the subject property.

7. The subject building abuts a thirty foot wide alley to the east. A rear yard of 27.08 feet, as measured from the center of this alley is required under the Zoning Regulations. The applicant proposes to construct a building at the property line. It would require a rear yard variance of 12.08 feet or a special exception under Paragraph 5303.11 wherein the BZA may waive the rear yard requirements provided certain standards, hereinafter discussed, are met.

8. The existing building is within eight inches of the rear lot line. The area behind the proposed addition, would become an open court on that side. The rear lot line and rear yard would not change and even if a 12.08 foot space were provided behind the addition, the applicant would still have to seek relief from the rear yard requirements.

9. The building site is long and narrow and contains the last undeveloped site on the east side of 19th Street between L and M Streets. Slightly more than fifty feet of depth from 19th Street, two stories in height, has been proposed for an open plaza. This plaza opens into the sidewalk area thus eliminating the normal commercial retail space in the proposed building. There is a proposal for a restaurant at the back of the plaza.

10. The existing building at 1145 - 19th Street, which was erected about 1954, has no arcade in the front and it would be impossible structurally to incorporate one now. The proposed addition will contain the plaza in order to create open space.

11. The development of the structure was undertaken while the Office of Planning Development's Washington Streetscape study was underway and the building is an effort to apply the recommendations of the study and to create an open urban plaza within the building lines so as to achieve a pleasant urban streetscape.

12. The plaza will provide an airy open space in the center of the block and it is the intention of the owner to carry the brick paving from the street into the building. A double row of trees will be installed as recommended in the Passonneau Streetscape study on 19th Street, N.W.

13. The application included a request under Paragraph 5303.11 of the Zoning Regulations which allows a waiver by the BZA of the rear yard requirements.

14. The applicant testified that Paragraph 5303.111 in reference to the separation of apartment and office windows from other buildings is met since the rear of the building abuts a thirty foot wide public alley.

15. The applicant testified that Sub-paragraph 5303.112 is not applicable under the definition of "habitable rooms". The building opposite to the addition at the rear, which is built to the east line of the alley, is a commercial office building and does not contain habitable rooms as defined in Section 1202 of the Zoning Regulations.

16. The applicant testified that Sub-paragraph 5303.113 is met since the building plan, Exhibit 9 of the record, includes adequate off-street service functions. The identical off-street service functions including parking, loading areas and access points would remain with or without the rear yard since there is no requirement for a rear yard below twenty feet.

17. The applicant testified that Sub-paragraph 5303.114 will be dealt with in the report from the Office of Planning and Development, hereinafter discussed.

18. The applicant alternatively seeks relief from the rear yard requirement of 27-1/2 feet above the twenty foot plane in the rear of the building. Sub-section 5303.3 allows the measurement to be taken from the center line of the thirty foot alley and the additional 12-1/2 feet would begin at the twenty foot plane level.

19. The Office of Planning and Development, by report dated February 28, 1979, reported as follows:

Over the past year, the Office of Planning and Development and the Department of Transportation have worked together with a consultant on a Streetscape Study for K Street, N.W., (16th Street to Washington Circle) and 19th Street, N.W., (Dupont Circle to K Street). The Streetscape Study has been completed, and is being published. For 19th Street, the study recommended:

- A. That the city adopt a plan for a double row of trees on each side of 19th Street, using willow oaks or a similar monumental street tree, with large tree boxes and metal grates over mulch.

- B. That red brick sidewalk paving be encouraged, with rougher brick paving in tree strips.
- C. That owners of private buildings particularly new construction, be encouraged to implement these plans.
- D. That owners of private buildings on 19th Street be encouraged to plant trees of 4" to 6" caliper.
- E. That owners of buildings to be built on 19th Street be encouraged to provide street level arcades over ten feet wide.
- F. That private basement vaults be permitted to extend 15 feet into the 19th Street right-of-way, but no further.
- G. That pedestrian markings as described in an earlier section of this report are particularly important on 19th Street, because of the high percentage of turning movements at all 19th Street intersections.
- H. That pedestrian amenities such as street maps, benches, clearly identified bus stops, get special attention on 19th Street.

The Department of Transportation plans to issue a Departmental Order to establish the tree and sidewalk paving policy for this section of 19th Street. The Office of Planning and Development found that the developer has been responsive to the design objectives of the 19th Street Plan. The Board so finds.

20. Advisory Neighborhood Commission 2B, by letter of February 14, 1979, reported that at its meeting of January 24, 1979 the Commissioners voted not to oppose the above special exception or variance. However, the ANC did bring to the attention of the Board the ninety requested parking spaces for this proposed building, and requested that there be restrictions placed on the number of spaces allowed since this part of 19th Street is filled with garages as is L Street on the east and west sides of 19th Street.

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21. The Board is required by statute to give great weight to the issues and concerns expressed by the ANC. In addressing these issues and concerns the Board notes that ANC-2B voted not to oppose the application. The ANC's objection is to the ninety parking spaces which it states is not needed and which if allowed would lead to promote further auto traffic and pollution of the air. However, the issue of parking is not related to the rear yard question raised in this application, and the Board is thus unable to respond to the ANC's concerns. The Board further notes that the Zoning Regulations do not require or limit parking spaces in the C-4 District, and that changes in that overall policy are the responsibility of the Zoning Commission, not the Board.

22. The Dupont Circle Citizens Association opposed the application on the grounds that the applicant had failed to provide sufficient evidence to sustain its burden of proof. The applicant had not proved that there was a practical difficulty stemming from the property itself. It requested the Board to deny the application. It also objected to any extra parking spaces in the proposed addition on the grounds that there was sufficient parking for commuters in the subject area. The DCCA also opposed the granting of a variance on the basis of a trade-off as not a basis to sustain a variance. For reasons hereinafter discussed the Board finds that a practical difficulty is present. As addressed to the concerns of the ANC the issue of the number of parking spaces to be provided is irrelevant to the application.

CONCLUSIONS OF LAW:

Based on the finds of fact, the Board concludes that the applicant is seeking relief in the alternative, as a variance and/or as a special exception. As to the variance, the applicant must establish that there exists a practical difficulty stemming from the property itself. As stated in Finding of Fact No. 8 in this application the existing building is within eight inches of the rear lot line, and even if the proposed addition were to be set back in conformance with the rear yard requirements relief **would still** be required, because the rear lot line and rear yard would not change. The subject property is for the purposes of the Zoning Regulations considered to be one structure. The Board concludes that this constitutes a practical difficulty upon the owner, and variance relief is appropriate.

