

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 12911, of Theodore C. Roumel, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the lot area requirements (Sub-section 3301.1) and rear yard requirements (Sub-section 3304.1) in an R-1-B District to construct a single family detached dwelling at the premises located at the southeast corner of the intersection of Garfield Street and Hurst Terrace, N.W. (Square 1421, Lot 827).

HEARING DATE: April 11, 1979
DECISION DATE: May 2, 1979

FINDINGS OF FACT:

1. The subject lot is located at the intersection of Garfield and Hurst Terrace, N.W., in the R-1-B zone District.
2. The subject lot is irregular in shape, with approximately twenty-four feet of frontage on Hurst Terrace, and ninety-five feet of frontage on Garfield Street, with a total area of 3,766 square feet. The lot is presently unimproved.
3. The applicant proposes to construct a single family detached dwelling on the subject lot for use as his own residence. The Zoning Regulations require a minimum lot area of 5,000 square feet. The applicant thus seeks a lot area variance of 1,234 square feet. The applicant also requires a rear yard variance of seventeen feet from the requirement of the Zoning Regulations that a twenty-five foot rear yard be provided. In all other respects, the proposed residence will meet the requirements of the Zoning Regulations.
4. The subject lot has been owned by the applicant or members of his family since 1942 when they acquired the subject lot and lots 828 and 829 in Square 1421. In 1960 the applicant sought variances from the BZA to permit construction on the subject lots. In appeals 5963, 5964 and 5965 the Board on August 17, 1960, denied the application on the grounds that the construction would result in an undue crowding of land and would substantially impair the intent, purpose and integrity of the zone plan.

5. Subsequent to August 17, 1960, the three lots were subdivided. Lots 828 and 829 met the 5,000 square feet requirement and houses were constructed on them. The area and configuration of the subject lot 827 were not changed at that time and remain today as they were created by the subdivision of 1955.

6. On July 10, 1963, the Board denied appeal No.7354 for variances from the minimum lot width and area requirements to construct a dwelling on lot 827. The Board stated at that time that the failure to incorporate the subject lot as part of the other lots upon which dwellings were constructed did not then entitle the owners to further relief.

7. There was opposition to the application on the part of abutting property owners, residents of the area and the Palisades Citizens Association. Petitions in opposition were also submitted by neighboring residents. The grounds of opposition were (a) Improvements had been made by owners of abutting property to their dwellings in reliance on the past denials of the Board (b) The proposed dwelling would interfere with the light and air of the abutting property owners (c) The proposed residence would result in the same undue crowding of the land as noted in the Board's 1960 decision (d) The variances sought are substantial. The Board concurs with the grounds stated in items "c" and "d."

8. Advisory Neighborhood Commission - 3D made no recommendation on the application.

9. The applicant contends that unless the variances are granted, no use can be made of the subject lot. As a vacant lot the property will continue to be an unauthorized dumping ground for neighborhood debris. As to the question of use, the Board finds that the applicant is correct that if the variance is denied, no use can be made of the property as an individual lot. The Board notes however, that the abutting owners have, on more than one occasion, offered to purchase the property from the applicant to incorporate it into the respective lots they owned. The Board finds that the applicant has had a reasonable opportunity to dispose of the property for permitted residential use in conjunction with existing adjoining dwellings, and that the applicant could receive a reasonable return for the site. The Board further finds that even if no such offer had been made, and there was no potential for use of the property, the application could not be granted because of the adverse effect on adjoining property which construction of the proposed dwelling would cause. As to the question of unauthorized use, the Board finds control of the property lies with the applicant, and that it is his responsibility to keep the lot free of debris and in a safe condition.

10. The applicant cited as a precedent, the decision of the Board, granting application No. 12466. In that case, a lot area variance was approved for a lot having a similar area as the present lot.

CONCLUSIONS OF LAW:

Based on the record, the Board concludes that the applicant is seeking area variances, the granting of which requires a showing of a practical difficulty upon the owner arising out of some unique or exceptional condition of the property. The Board further must find that the application will not be of substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan.

The Board concludes that the size of the lot does create a practical difficulty for the owner, in that the lot is too small to permit any independent use of the site. The Board notes however that the applicant does have the option of selling the lot to the adjoining property owners, who have offered to pay fair market value for the lot to subdivide and include it as part of their present property.

Notwithstanding the conclusion as to practical difficulty, the Board concludes that the application cannot be granted. The small size of the lot, when combined with the need for lot width and rear yard variances, creates an overcrowded situation in the area. The Board concludes that the material facts relevant to this case have not changed since 1960 and 1963, when variance cases brought on the same grounds as this case were denied by the Board. The Board concludes that the granting of this application would be of substantial detriment to the public good and would impair the intent of the Zoning Regulations. As to the precedent case cited by the applicant, the Board concludes that each case must be decided on the specific set of facts presented, and that the two cases can be distinguished. The size of the lot in both cases creates a practical difficulty for the owner. However, in case No. 12466 no lot width or rear yard variances were requested, and the Board could not and did not reach the same conclusion as to overcrowding as is reached in this case.

It is therefore Ordered that this application be DENIED.

VOTE: 4-0 (Theodore F. Mariani, William F. McIntosh, Charles R. Norris, and Chloethiel Woodard Smith to DENY; 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 JUL 1979

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT.