

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 12960, of Herbert Lehner, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the lot width and lot area requirements (Sub-section 3301.1) rear yard requirements (Sub-section 3304.1), from the prohibition against allowing an open parking space within ten feet of a row dwelling (Sub-section 7205.2) and from the prohibition against allowing a parking space which is less than nineteen feet in length (Sub-section 7204.1) for a proposed subdivision and residential development comprising two row dwellings in an R-4 District at the premises 1511 and 1515 North Carolina Avenue, N.E. (Square SE-1068, Lots 18, 19 and 20).

HEARING DATES: August 15, 1979 and September 19, 1979
DECISION DATE: October 3, 1979

FINDINGS OF FACT:

1. The subject application was first scheduled for the public hearing of June 20, 1979. It was not heard since the required list of the names and addresses of the owners of property within 200 feet of the subject property was incomplete. The proper information was submitted, and the case was heard on August 15, 1979.

2. The subject property is located on the south side of North Carolina Avenue, N.E., between 15th and 16th Streets. It is known as 1511 and 1515 North Carolina Avenue, N.E. and is in an R-4 District.

3. The subject square SE-1068 is bounded by 15th Street, 16th Street, North Carolina Avenue and Constitution Avenue. Lots 18, 19 and 20 have a combined area of approximately 1,681 square feet and are abutted at the rear by a public alley which varies from ten feet to sixteen feet in width. Adjacent to lot 20 on the west is a two-story row dwelling. East of lot 17 is a church. To the rear of this site is a grocery store which faces both Constitution Avenue and 15th Street, S.E. Two-story row dwellings are a number of three and four story apartment buildings in the area and non-conforming commercial uses scattered throughout.

4. The subject lots 18, 19 and 20 have areas of approximately 527 square feet, 560 square feet and 594 square feet, respectively. They are unimproved.

5. The applicant proposes to subdivide the three existing lots into two lots and construct two three-story single family dwellings.

6. The two newly subdivided lots will have areas of approximately 828 square feet (1511 North Carolina Avenue) and 853 square feet (1515 North Carolina Avenue). Variances of 972 square feet, fifty-four per cent, and 947 square feet, fifty-three per cent are requested. The minimum lot area required in the R-4 District for a row dwelling is 1,800 square feet.

7. Each proposed lot will be 17.5 feet in width which is six inches less than the eighteen foot minimum required.

8. The applicant proposes one parking space in the rear yard of each lot. Both are nine feet in width, one is an average of twenty feet in length, and the other is an average of 18.75' in length. The proposed parking space at 1511 North Carolina Avenue is 4.49 feet from the rear of the dwelling which would require a variance of 5.51 feet or fifty-five per cent. The proposed parking space at 1515 North Carolina Avenue is one foot from the rear of the dwelling which would require a variance of nine feet or 90 per cent.

9. The proposed dwelling at 1511 North Carolina Avenue has an average rear yard of 18.23 feet which is 1.77 feet or ten per cent less than the current minimum depth of rear yard requirement.

10. On-street parking is unrestricted on both sides of North Carolina Avenue at this location. The 1500 block is not included in a residential parking permit zone.

11. Plans submitted by the applicant indicate that the proposed dwellings will be three story single family townhouses, each of which will have three bedrooms and two and one half baths.

12. The three subject lots were developed with row dwellings at one time. The Baist Atlas map for these lots evidence three dwelling units. There are three existing sets of stairs at the front of these lots.

13. The Office of Planning and Development, by report dated August 8, 1979, recommended that the application be conditionally approved on the grounds that the construction of two single family dwellings on this site would be an appropriate use of the property and would be in keeping with the low density residential character of this block. The OPD noted that a significant number of existing lots in the immediate vicinity do not meet the present minimum lot width and lot area requirements of the R-4 District.

None of the lots which front on North Carolina Avenue in this block are 1,800 square feet or greater. The two proposed lots will be larger than the five lots immediately adjacent to the east. Of the residential properties facing North Carolina Avenue, only lot 42 at the corner of North Carolina Avenue and 16th Street is greater than eighteen feet in width. The remaining lots range from 11.66 to 15.5 feet in width.

Regarding the requested area variances for the lot width and rear yards of the proposed dwellings, the OPD concluded that the granting of these variances would not adversely affect the light, air, and ventilation of the proposed dwellings or adjacent structures. Although the variance requested from the lot area requirements of the R-4 District are substantial, fifty-four and fifty-three per cent, OPD noted that the three former lots were occupied with dwellings at one time, each of which had significantly less lot area per unit. The proposed lots would have larger areas than many lots in this neighborhood. If the two proposed lots are to be devoted to the single family use as opposed to flats, OPD reported that the lot areas, although small, would be adequate to provide sufficient light, air and ventilation. The proposed dwellings will be similar to those immediately adjacent and to dwellings throughout the neighborhood.

As to the parking variances requested, the OPD noted that as a result of the small lot area of each of the proposed lots, the rear yard of each dwelling is relatively small. The proposed parking spaces will occupy nearly one-half of the rear yards of each dwelling. OPD believes that this condition is undesirable since it does not allow for sufficient private open space for either dwelling unit. There is a setback of approximately thirty feet along the North Carolina Avenue frontage of the property. This area is, however, public space. In an effort to provide some private open space for each of the proposed units, OPD recommended that the parking spaces for each lot be eliminated. Parking is unrestricted on both sides of North Carolina Avenue and three field inspections revealed that there was ample on-street parking in this block on each occasion.

In summary, OPD recommended that the variances from the lot area, lot width and rear yard requirements of the Zoning Regulations be approved. It recommended that the parking spaces proposed for the rear yards of the dwellings be eliminated. The OPD recommended that this application be granted with the condition that each of the proposed dwellings be limited to single family use. The Board concurs with the OPD as to the approval of the lot area, lot width and rear yard variances. It does not concur that the parking spaces be eliminated.

14. The Capitol Hill Restoration Society reported that its membership voted to oppose the application as originally submitted. It voted to support an amended application whereby the two houses would be a minimum of eighteen feet wide and that the parking spaces be turned perpendicular to the length of the lots so as to be as far from the rear of the houses as possible. The CHRS also voted that in view of the unusually small size of the existing lots on the block, it believed that a practical difficulty existed in meeting the 1800 square feet lot requirements.

15. Advisory Neighborhood Commission - 6A by letter of June 8, 1979, reported that it voted against the granting of the variances on the grounds that the grant would adversely impact contiguous properties, serving only the expediences of the applicant. The ANC found that neighbors in the affected area were opposed to the contemplated changes and ANC supported their sentiments.

16. The Board is required by statute to give great weight to the issues and concerns expressed by the ANC. In addressing these concerns, the Board notes finding No. 13 that a significant number of existing lot sizes in the immediate vicinity of the subject property do not meet the minimum lot width and lot area requirements of the R-4 District, that none of the lots which front on North Carolina Avenue in the subject block are 1,800 feet or greater and that the two proposed lots will be larger than the five lots immediately adjacent to the east. The OPD further noted that granting the area variances would not produce an adverse affect on light, air, and ventilation. The Board further notes, finding No. 12 that three houses had previously been located on the subject lots whereas now two dwellings are proposed. From the foregoing the Board finds that the granting of the application would not adversely impact contiguous properties.

As to the concern that the neighbors in the affected area were opposed to the contemplated changes, the Board cannot address this issue since no specific grounds were stated for their opposition.

17. There was no opposition to the application at the public hearing.

18. The applicant submitted revised plans at the further hearing held on September 19, 1979. Those plans, marked as Exhibit No. 63 of the record, show two single family dwellings, each 17.5 feet wide rather than the three houses originally proposed.

CONCLUSIONS OF LAW AND OPINION:

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 that stems from the property itself. The lot width of both proposed dwellings is six inches less than required under the Zoning Regulations. The Board concludes that this is minimal. The lot area of both dwellings is very similar to presently existing lots in the immediate area of the proposed dwellings. The practical difficulty is inherent in the lot area. The applicant is providing two dwellings where there were previously three. The applicant is constricted by the existing size of the lots and the inability to obtain additional area. A 1.77 foot rear yard variance is also minimal. The Board is also of the opinion that since there is a dearth of good housing in the District of Columbia, the granting of this application will help meet this need and also prevent the subject empty lots from becoming dumping grounds.

The Board is also of the opinion that the proposed on-site parking is preferable to on-street parking and that because of the restricted lot area the practical difficulty for a parking variance does exist. The Board has given the great weight required of the issues and concerns expressed by the ANC.

The Board further concludes that the proposed variances 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 subject to the condition that the dwellings shall be constructed in accordance with the revised plans marked as Exhibit No. 63 of the record.

VOTE: 3-0 (Charles R. Norris, Chloethiel Woodard Smith and William F. McIntosh to GRANT, Ruby B. McZier and Leonard L. McCants not present, not voting).

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

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

FINAL DATE OF ORDER: 7 DEC 1979

Application No. 12960
Page 6

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."

THIS ORDER OF THE BOARDS IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.