

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 13007, of Robert Millman, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the lot area and lot width requirements (Sub-section 3301.1), side yard requirements (Sub-section 3305.1), from the prohibition against allowing an open parking space within ten feet of a dwelling (Sub-section 7205.2), and from the parking space requirements (Sub-section 7202.1) for a proposed subdivision and new residential development comprising four semi-detached dwellings in an R-2 District at the premises East Capitol Street and Central Avenue S.E. (Square 5286, Lot 48).

HEARING DATE: August 15, 1979

DECISION DATE: October 3, 1979

FINDING OF FACT:

1. At the public hearing, the Board granted permission to the applicant to amend the application. The applicant no longer requires any variances from the parking requirements (Sub-sections 7205.2 and 7202.1 of the Zoning Regulations).
2. The subject property is located at the intersection of East Capitol Street, Central Avenue and 50th Street, S.E. It is in an R-2 District.
3. The subject site is 14,202 square feet in area and is unimproved. The applicant proposes to subdivide the subject lot into four record lots and to construct four semi-detached single family dwellings on the subject site. The site has 167.18 square feet of frontage on East Capitol Street and 189.46 feet of frontage on Central Avenue. The site's topography slopes uphill to the northeast. The lot is triangular in shape.
4. There is a building restriction line, set back fifteen feet from Central Avenue and a building restriction line, set back thirty-five feet from East Capitol Street.
5. To the north of the subject property is East Capitol Street, a street having a ninety foot right of way, followed by semi-detached dwellings in the R-2 District. To the east abutting the subject site there is a single family detached dwelling on a 5,300 square foot lot in the R-2 District. This lot has frontage on both East Capitol Street and Central Avenue. To the south is Central Avenue, a street having a sixty foot right of way, followed by a public library in the R-2 District.

To the northwest across East Capitol Street there are semi-detached dwellings in the R-2 District, and to the southwest across Central Avenue there is a Catholic Church in the R-2.

6. The variance from Section 3301.1 of the Zoning Regulations will allow the creation of two record lots of less than thirty feet in width and two record lots with an area of less than 3000 square feet. The proposed Lot No. 2 would be 27.77 feet in width with an area of 2339 square feet. Proposed Lot No. 4 would be twenty-six feet in width. Proposed Lot No. 3 would have an area of 2955 square feet.

7. The variance requested, from Section 3305.1 of the Zoning Regulations, would permit the creation of three record lots with side yards less than eight feet. Proposed Lot Numbers 2, 3 and 4 would each have a side yard of six feet.

8. The applicant testified that he can construct three dwellings on the subject site without need for any of the subject requested variances. He testified that the houses would sell at a higher price than the proposed houses and that it was his understanding that at the increased selling price, the dwellings would not be marketable in the subject neighborhood nor in keeping with the neighborhood.

9. The Office of Planning and Development, by report dated August 9, 1979, recommended that the application be approval with conditions. The report was written prior to the amendment of the application. The OPD reported that the shape of the subject site, the site's frontage on two streets, and the resultant building restriction lines create difficulties in developing the property in conformance with R-2 District standards. The OPD expected no significant traffic impact from the proposed development as on-street parking is permitted on East Capitol Street and Central Avenue at this location. Upon reviewing the site plan, the OPD found the proposed western lot lines which front on East Capitol Street platted in an irregular matter. The OPD felt that these lines should be platted perpendicular to East Capitol Street. This replatting of the lot lines would increase the degree of variance the lots need for development but would simplify the design and bring the lot's shape into character with the other lots in this Square. In conclusion, OPD was of the opinion that the requested variance relief will allow the development of this site with needed housing without substantial detriment to the public good and without impairing the intent, purpose and integrity of the Zoning Regulations and Map. For reasons stated in the Conclusions of Law, the Board does not concur in the report of the OPD.

10. The Capitol View Property Owners Association, the Trustees of the Capital View Baptist Church, and neighboring property owners opposed the application. A petition with thirty-two signatures in opposition to the application was submitted to the record. The grounds of the opposition were: (a) The proposed design would upset the architectural stability of the subject residential area; (b) An opening wedge would be created whereby outside entrepreneurs would be able to evade zoning requirements under the guise of promoting the use of vacant land for maximum benefit to the city; (c) Zoning Regulations are intended to protect property owners as well as other citizens of the community from those interested only in financial gain; (d) The applicant can construct three houses on the subject site without a need for any variances; (e) The granting of the variances would be detrimental to the public good with its resulting adverse impact upon adjacent and neighboring properties.

11. Advisory Neighborhood Commission - 7E, by letter of August 15, 1979 and at the public hearing opposed the granting of any variances requested by the applicant. No grounds were stated by the ANC.

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 stemming from the property itself. The applicant has argued that the unusual shape of the subject property, its two building restriction lines on two of the three sides of the property and the topographical conditions create the practical difficulty. The Board concludes that while these conditions may constitute practical difficulties in certain situations, in the subject application the applicant has produced the practical difficulty because of his proposal to develop four dwellings on the subject site. The applicant testified and the Board so finds that he could construct three dwellings without the need of any variances. The applicant, in overcrowding the subject lot, has created the need for the variances.

The Board notes the opposition to this application. It further concludes that the application cannot 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 DENIED.

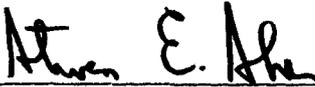
VOTE: 3-1 (Walter B. Lewis, Charles R. Norris and William F. McIntosh to DENY; Chloethiel Woodard Smith OPPOSED; Leonard L. McCants not voting, having recused himself).

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

ATTESTED BY:



STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER: 4 JAN 1980

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."