

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13057, of Anthony and Eleanor Baker, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the side yard requirements (Sub-section 3305.1) and the lot area and width requirements (Sub-section 3301.1) to construct a detached dwelling at the premises 4013 Fessenden Street, N.W. (Square 1756, Lot 7).

HEARING DATE: October 17, 1979
DECISION DATE: November 7, 1979

FINDINGS OF FACT:

1. The subject property is located on the north side of Fessenden Street near its intersection with 41st Street, N.W. in an R-1-B zone district at premises known as 4013 Fessenden Street, N.W., Square 1756, Lot 7.

2. The subject site is currently vacant and unimproved. The applicant purchased the property as well as the adjoining improved property approximately one year ago. Both properties were in a dilapidated state at that time. The applicant has since made extensive renovations to the adjoining property.

3. The property is thirty feet wide by 120.65 feet long. The applicant proposes to construct a single family detached dwelling twenty feet wide by forty-five feet long.

4. Sub-section 3301.1 of the Zoning Regulations requires a minimum lot area of 5,000 square feet and minimum lot width of fifty feet in the R-1-B zone. The subject lot provides a lot area of 3619.5 square feet. Thus a variance of 1380.5 square feet or 27.61% is required. The lot width provided is thirty feet. Thus a variance of twenty feet or forty percent is required.

5. The subject property existed as a separate record lot at the time of adoption of the Zoning Regulations.

6. While the subject property is located on Fessenden Street forty feet east of its intersection with 41st Street in the R-1-B zone, it is adjoined by R-2 property on 41st Street. 41st Street serves as the boundary line between the R-1-B and R-2 zone districts. R-4 and C-2 zones are only two blocks away on Wisconsin Avenue.

7. Sub-section 3305.1 of the Zoning Regulations requires that side yards be a minimum of eight feet in width for the R-1-B zone. Due to the narrow width of the lot (thirty feet), the applicant could not construct a twenty feet wide structure on the property, and provide the required side yards. The applicant proposes to provide an eight foot side yard to the east of the proposed structure and a two feet side yard to the west. Thus a variance of six feet or seventy-five percent is required.

8. Advisory Neighborhood Commission - 3E by report filed and oral testimony given at the public hearing, voted to approve the application on the grounds that the proposed house would be in character with the surrounding area, and would serve to upgrade the area in general. The Board so finds.

9. The adjoining property owner supported the application.

10. There was no opposition to the granting of this application.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and the evidence of record, the Board is of the opinion that the requested variances are area variances, the granting of which requires the showing of a practical difficulty arising out of the property upon the owner. The Board concludes that the area and width of the lot at the time of adoption of the Zoning Regulations creates such a difficulty, in that the lot could not be used for any permitted use without a variance from the Board.

The Board notes that there was no opposition to the application, and that the Advisory Neighborhood Commission and the adjoining property owner to the west, who would be most affected by approval of the application, both recommended approval of the application.

The Board in the recent past, has had a number of lot area variance cases in the R-1 zone, some of which have been denied and some of which have been granted. The Board concludes that this case can be distinguished from the other cases which were denied in that this lot was a record lot at the time of adoption of the Zoning Regulations and not created through subdivision by this applicant. Further, the lot is comparable in size to the adjoining and surrounding lots. In addition, the property to the west across the adjacent street is zoned R-2, which permits semi-detached dwellings on lots as small as 3,000 square feet.

The Board further concludes that the requested variance can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map. Accordingly, it is hereby ORDERED that this application is hereby GRANTED.

VOTE: 3-0 (Walter B. Lewis, Charles R. Norris and William F. McIntosh to GRANT; Leonard L. McCants not present, not voting; Chloethiel Woodard Smith not voting, not having heard the case).

BY ORDER OF THE BOARD OF ZONING ADJUSTMENT

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

FINAL DATE OF ORDER: 11 FEB 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."

THIS ORDER OF THE BOARD 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.