

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13107 of Gary Investment, Inc., pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the lot area requirements (Sub-section 3301.1) for the proposed construction of a single family detached dwelling in an R-2 District at the premises 725 - 56th Street, N.E., (Square E-5213, Lot 37).

HEARING DATE: January 23, 1980
DECISION DATE: April 2, 1980

FINDINGS OF FACT:

1. The subject site is located at the southeast corner of the intersection of 56th and Hayes Street and a public alley and is known as 725 - 56th Street, N. E. It is in an R-2 District.
2. The subject site is 3,381.60 sq. ft. in area and is unimproved.
3. The subject site is triangular in shape.
4. The applicant proposes to construct a single family dwelling on the site. The Zoning Regulations for a detached dwelling in an R-2 District require a minimum lot area of 4,000 sq. ft. The applicant seeks a lot area variance of 618.40 sq. ft. or fifteen per cent. In all other respects the proposed development meets the requirements of the Zoning Regulations.
5. The applicant testified that the lot was a buildable lot when purchased in the mid 1960's.
6. The Board requested the OPD to prepare a report on application Nos. 13105, 13106 and 13107. The report was served on all parties and their comments were requested. All three applications were filed by the same applicant. In each application the applicant proposes to develop the site with a single family detached dwelling. All three sites are located in the same neighborhood and in close proximity to each other. The OPD provided one consolidated report.

7. The Zoning Regulations were amended in the early 1970's to include a new Sub-section 3305.4 which reads as follows:

3305.4 In R-2, R-3, R-4 and R-5 Districts when a one family dwelling, flat or multiple dwelling is erected which does not share a common division wall with an existing building or a building being constructed together with the new building then it shall have a side yard on each resulting free standing side.

The structure proposed in this case is thus required to have a side yard on each side, and is thus by definition a detached dwelling.

8. As to the subject application, No. 13107, the Office of Planning and Development by report dated February 26, 1980 recommended that the application be approved on the grounds that the requested variance arises from the irregular shape and size of the lot and that the relief requested is not likely to impact adversely the surrounding area. The Board does not concur for reasons later stated in the Conclusions of Law,

9. ANC-7C objected to the application on the grounds that there is not sufficient square footage to build the single family dwelling without constructing unsightly and undesired buildings. The Board concurs as to the smallness of the site.

10. The Burrville Civic Association and owners of property in the immediate area objected to the application. There was also a petition of neighboring residents in opposition to the application. The grounds of the opposition were that any variance in excess of ten percent was too great and would have a negative impact on the neighborhood that inferior type housing would result and that the adjoining property owners would have their right of privacy violated. The Board so finds as to the extent of the variance and the violation of privacy.

11. The applicant, in rebutting the objections raised, testified that he has been building in the subject neighborhood for over twenty-six years, that he is not a speculator and that warranties are issued on the dwellings he constructs. The Board does not question the integrity of the applicant. It is its opinion that the builder would be constrained in his plans because of the size of the land area.

CONCLUSIONS OF LAW AND OPINION:

Based on the record the Board concludes that the applicant is seeking an area variance the granting of which requires a showing of a practical difficulty upon the owner of the property that arises from the property itself. The Board concludes that the size and shape of the lot constitutes a practical difficulty. However, the Board concludes that a fifteen percent variance is too great a variance. The Board notes the objections of the ANC and the neighboring property owners in which the Board substantially concurs. The Board 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 (Charles R. Norris, Connie Fortune and Leonard L. McCants to deny, William F. McIntosh opposed).

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

ATTESTED BY



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 18 JUN 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."