

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13132 of Oliver T. Carr and George Beuchert, Trustees, et al., pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Sub-section 3308.2 to allow more than one roof structure and variances from the open court width requirements (Sub-section 5305.1) and from the prohibition allowing roof structures greater than 18.5 feet in height (Paragraph 5201.24) to permit construction of an office and retail building in a C-4 District at the premises 613 and 624 - 15th Street, N.W., (Square 224, Lots 18,812,814,819,808,809,810,811,821,21 and public alley proposed to be closed).

HEARING DATE: December 19, 1979
DECISION DATE: January 9, 1980

FINDINGS OF FACT:

1. The subject site consists of Lots 18,812,814,819,808, 809,810,811,821 and 21 and a public alley proposed to be closed pursuant to S.O. 78-147 in the C-4 Zone. The site includes all of the square bounded by 14th, 15th, F and G Streets, N.W. with the exception of the existing Garfinckel's Department Store at 14th and F Streets, N.W.
2. The subject site consists of an area of approximately 67,000 square feet, including 6,790 square feet of public alley requested to be closed, and has frontage of approximately 370 feet along G Street, 114 feet along 14th Street, 150 feet along F Street, and 257.5 feet along 15th Street, N.W.
3. The subject site is presently improved with several commercial structures, including the Keith-Albee Building, the National Metropolitan Bank Building, a branch office of American Federal Savings and Loan, the Rhodes Tavern, and the Old Ebbitt Grill.
4. The applicants intend to erect a major mixed retail and commercial use complex incorporating the entire facades of the National Metropolitan Bank Building on 15th Street and the facade of Keith-Albee Office Building on 15th and G Streets, N.W., such structures being designated landmarks in the District of Columbia. The complex will contain approximately 665,000 square feet of gross floor area.

5. Portions of the subject site have been the subject of litigation and of extensive negotiations involving the D.C. Office of Planning and Development, Don't Tear It Down, Inc. and the Applicants, which resulted in the agreement of Don't Tear It Down to support the total Carr project as presented to the Board and of OPD to support the project and give non-monetary assistance in processing the approval of the project.

6. The applicants have amended their plans to increase the setback of the new construction above the 95 foot mark at the request and with the approval of the Commission of Fine Arts to decrease the massing of the project along the 15th Street facade in order to create a harmonious setting for the lower historic facades being retained.

7. The applicants have submitted their plans to the Joint Committee on Landmarks, which approved on October 18, 1979 the design concept provided that the Mayor's Agent finds the project to be one of Special Merit pursuant to D.C. Law 2-144.

8. A pedestrian retail mall area on the first floor of the structure as proposed is an important architectural and planning feature of the project.

9. The applicants propose to furnish light to the pedestrian mall area and interior office spaces by means of an atrium-skylight at the roof level.

10. The architect for the project testified that two elevator banks and two service cores are needed to adequately serve a retail and office structure of the magnitude of this project. The architect further testified that the project is most efficiently served by locating the elevator cores on the opposite side of the atrium. A break in the penthouse area creating two roof structures is thus necessary to simultaneously house the two elevator cores, and allow a maximum natural light flow from the skylight. The architect testified that the separation of the penthouse is also necessary to minimize the massing of the new construction at the 130 foot height along 15th Street in accordance with the recommendations of the Commission of Fine Arts. The Board concurs in all the reasoning presented by the architect.

11. The applicants' proposal seeks to provide a visual division and transition space between the historic facades and the newer construction. The plans therefore include two roughly symmetrical niches on the F and G Street facades as approved by the Commission of Fine Arts and the Joint Committee in order to provide an architecturally sympathetic transition between the historic and modern elements of the design.

12. The proposed architectural niches on F and G Streets constitute courts under the Zoning Regulations.

13. The widths of the courts so created are less than those required under Sub-section 5305.1. The court on G Street has a width of seventeen feet. The Zoning Regulations require a minimum width of fifty-two feet. A variance of thirty-three feet is thus required. The court on F Street has a width of fifteen feet. The Zoning Regulations require a minimum width of fifty-eight feet. A variance of forty-three feet is thus required.

14. Both courts face directly onto public streets which are ninety and 100 feet in width. There would thus be adequate light for the courts.

15. The architect of the project testified that compliance with Section 5305.1 could be obtained by either widening the courts or eliminating them altogether, either of which would have a negative effect on the historic elements of the design. The Board so finds.

16. The applicants seek to provide the public with direct high speed elevator access to the roof terrace.

17. Paragraph 5201.24 of the Zoning Regulations precludes roof structures from exceeding 18'6" in height. This would allow elevator service only to the top floor of buildings, rather than to the roof. The applicants propose to provide two elevator penthouses twenty-seven feet in height above the level of the roof upon which they are located. This would require a variance of 8.5 feet.

18. Two elevator housings of an additional height are necessary to accommodate the passenger cab height and the mechanical equipment above the roof necessary to efficiently provide direct service to the roof terrace.

19. The applicants' proposal to provide a twenty-seven foot penthouse is the minimum height within which an elevator providing direct access to the roof can be located.

20. Access to the roof terrace can still be achieved by way of stair service from the top floor of the building. The Board finds that such service can be designed in the building so as not to disrupt or intrude upon the normal commercial use of the twelfth floor.

21. The increased height for the elevator penthouses can not be seen from the street immediately in front of the building, but will be visible from other public parks and spaces further removed from the building.

22. The applicant has not described any practical difficulty inherent in the property or in the building itself which would serve as the proper basis for the granting of this variance. The applicant cited only one previous case in which the Board had granted a variance from the height requirements for roof structures. In that case, there was a subsoil condition in the property, and the building itself had floor-to-floor heights which increased the elevator override required.

23. The Office of Planning and Development, by report dated December 17, 1979, recommended that the application be approved. The OPD reported that the proposed building is a unique and special project because of its location and size and the integration of landmark facade with new development. The OPD further reported that the special exception and the two variances requested are responsive to the special circumstances of the project and will not be contrary to the public intent. The Board concurs, except as to the height of the roof structures. As to that issue, the Board notes that James O. Gibson, Assistant City Administrator for Planning and Development, testified at the hearing that the OPD had not made a specific detailed analysis of the roof structure height issue, and that the Board should exercise its discretion as to how to deal with that issue.

24. Advisory Neighborhood Commission - 2C filed no report on this application.

25. No one appeared in opposition to this application.

CONCLUSIONS OF LAW AND OPINION:

The Board concludes that the two requested variances are area variances, the granting of which requires the showing of a practical difficulty upon the owner arising out of some condition or situation of the property itself. As to the variance from the court width requirements, the Board concludes that there is a practical difficulty inherent in the property. Such difficulty arises out of the existence of two historic landmarks on the site, the facades of which are to be integrated into the new construction on the site.

The need to integrate the two historic facades with the new construction on the site form a sufficient exceptional condition so as to entitle the applicants to relief from the court width requirements. Compliance with the provisions of Section 5305.1 by either widening or eliminating the transition niches would be aesthetically unsound and would impose a practical difficulty upon the applicants who have attempted to create an architectural treatment in accordance with the actions of the Joint Committee and the Commission of Fine Arts.

The applicants' proposed treatment of interface of the preserved historic and new design elements is in the public interest and the granting of the variance relief will not substantially impair the intent, purpose and integrity of the Zoning Regulations.

As to the variance for the height of the roof structures, the Board concludes that the applicant has not demonstrated a practical difficulty inherent in the property to form the basis for the granting of the variance. The basis for the variance request is basically the applicants' desire to provide direct elevator access to the roof. The Board concludes that such desire does not qualify the property for a variance. The Board concludes that access to the roof can be provided by stairs from the twelfth floor, and there is thus not sufficient practical difficulty for the owner to justify a variance.

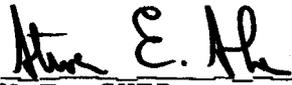
As to the special exception, the Board concludes that pursuant to Sub-section 8207.2 the applicants have met all of the requirements to entitle them to special exception relief from the prohibition on more than one roof structure set forth in Paragraph 3308.12. Because of the size of the building lot, the presence of historic elements in the design scheme, and the size of the proposed atrium, full compliance with Paragraph 3308.12 of the Zoning Regulations relating to the number of permissible roof structures would be unduly restrictive and unreasonable in the present case. Light and air of adjacent users will not be adversely affected by erection of two penthouse structures. The Board thus concludes that the granting of the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to affect adversely the use of neighboring property in accordance with said Zoning Regulations and Maps.

It is therefore ORDERED that the special exception to erect more than one roof structure and the variance from the court width requirements are hereby GRANTED, and the variance from the height requirements for the roof structures is HEREBY DENIED.

VOTE: 4-0 (Walter B. Lewis, Charles R. Norris, Connie Fortune and Leonard L. McCants to GRANT with the special exception and court variance and DENY the height variance, William F. McIntosh not voting, having recused himself).

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

ATTESTED BY: _____


STEVEN E. SHER
Executive Director

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FINAL DATE OF ORDER: 27 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.