

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 13142, of Texas-East Capitol Joint Venture, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Paragraph 3105.42 for a proposed subdivision and new residential development and variances from the lot occupancy requirements (Sub-section 3303.1) and floor area requirements (Sub-section 3302.1) to construct twenty-four row dwellings and four semi-detached dwellings in an R-5-A District at the premises 4301-4331 East Capitol Street, S.E. and 4800-4822 Texas Avenue, S.E., (Square 5405, Lots 801-819, 822, 825, 828, 832-848).

HEARING DATES: January 16, 1980 and February 20, 1980  
DECISION DATE: March 5, 1980

FINDINGS OF FACT:

1. The subject application was scheduled initially for the public hearing of January 16, 1980. It was continued since the applicant had not complied with Section 3.33 of the Supplemental Rules of Practice and Procedure before the Board of Zoning Adjustment in that the applicant had never posted notice of the hearing on the subject property.
2. The subject site is a triangular area at the corner of East Capitol Street and Texas Avenue, S.E. and is further divided into two portions by a fifteen foot wide L-shaped public alley, the west leg of which acts as a boundary for the proposed development. The site is known as 4301-4331 East Capitol Street and 4800-4822 Texas Avenue, S.E. It is in an R-5-A District.
3. The subject site is vacant and overgrown with trees and bushes. The applicant proposes to construct two rows of attached houses, one paralleling East Capitol Street and the other Texas Avenue. Together they total twenty-four row dwellings and four semi-detached units. The site bordering on East Capitol Street is basically rectangular. The site bordering on Texas Avenue is triangular in shape. The site slopes from a high portion in the west towards Texas Avenue with a varying gradient of six to eight percent.

4. The proposed development is in a predominantly residential neighborhood of low buildings. There are some apartments in the R-5-A District in which the application is located. In the surrounding R-2 District nearby are many blocks of semi-detached and detached homes. Just beyond the Chaplin Park Apartments which adjoins the site on the west is the large open space of Fort Chaplin Park, which includes a recreation area. The Mary H. Plummer Elementary School is a short walk to the south while the Benning Elementary School is a little further away across East Capitol Street. Some local shops are within easy walking distance where Benning Road crosses East Capitol Street. Those two streets provide easy access to other, larger shopping areas.

5. There will be twenty-four three bedroom units and four four bedroom units. Each purchaser has an option to have constructed a one bedroom self contained rental unit in the basement of each townhouse. Each unit will be for sale to the general public. Each unit will be constructed on fee simple lot. The structures will be three stories in height and will be constructed of brick veneer, block and wood.

6. Each townhouse will have an indoor single car garage or an outdoor parking pad.

7. Five of the row dwellings require variances from both the F.A.R. and lot occupancy requirement of the Zoning Regulations while one requires a variance from lot occupancy only. They exceed the minimum requirements by varying amounts ranging from 2.5 per cent to thirty-four percent. Two of the six which require variances are among the four garage houses which require access from East Capitol Street. The row houses at 4802 and 4820 Texas Avenue, which join two semi-detached dwellings, and which utilized parking pads, both exceed the allowable FAR by approximately twenty-four percent and the allowable lot occupancy by thirty-three percent. These lots where the variances are required are shallower and smaller than the majority of the lots in the development because they are located near the corners of the triangular shaped site. All of the lots in the development are at least nineteen feet wide.

8. Pursuant to Paragraph 3105.42 of the Zoning Regulations the application was referred to the Board of Education, Department of Transportation, Department of Housing and Development and the Office of Planning and Development for their comments and recommendations.

9. By memorandum dated December 12, 1979, the Board of Education reported that there will be no impact upon school facilities in the subject area caused by the proposed development. The Board so finds.

10. Department of Transportation, by memorandum dated February 11, 1980, reported as follows:

"The location of the proposed driveways for houses numbered 13, 14, 15 and 16, as shown on Sheet No. 2 of 8, dated March 5, 1979, prepared by Melvin Mitchell Architects will create a severe traffic hazard on East Capitol Street, a principal arterial which is three lanes wide in the east bound direction and carries over 8,000 vehicles during the 10 daytime hours, and approximately 2,000 vehicles during the evening peak hour between 4:30 and 5:30 p.m. Over 600 vehicles pass the site between 7:15 and 8:17 a.m., the morning peak hour. The DOT recommended that as a condition for granting the application, the applicant be required to rearrange the four houses with driveway orientation toward Texas Avenue.

The DOT further recommended that the granting of this application be contingent upon the applicant's construction of a sidewalk along Texas Avenue, and construction of the alleys to provide access to the proposed off-street parking.

As an additional requirement, the DOT recommended that the applicant dedicate a one-foot strip of land to increase each alley width to the standard minimum of sixteen feet for residential alleys.

The traffic generated by the proposed twenty-eight family row dwellings should not impose a measurable adverse traffic impact on the surrounding street system or community.

One off street parking space is provided for each unit. Metrobus service is available on East Capitol Street and on Benning Road, approximately one block east of this site." The Board concurs.

11. The Department of Housing and Community Development, by memorandum dated January 23, 1980, reported as follows:

"Some effort should be made to reduce the extent of the requested variances for they create less than optional living accommodations. Given the configuration of the lots, this can probably be best accomplished by a reduction in the total number of units. The DHCD also questioned a site layout which requires driveway entrances from East Capitol Street, particularly near two intersections -- Texas Avenue crosses East Capitol approximately 100 feet to the east of the proposed driveways and Benning Road is only another 200 feet beyond that to the east.

The DHCD further noted that the site is well served by private and public services and is unlikely to have any adverse impact on public facilities.

The proposal is consistent with the objective of providing housing for families of varied incomes. The selected housing type is largely consistent with the existing neighborhood and can be said to form a transition between apartments elsewhere in the R-5-A zone and the semi-detached and detached houses in the adjoining R-2 zone.

The Department of Housing and Community Development, while largely favorable to the proposal under review, would support action by the Board of Zoning Adjustment which would reduce the number of variances requested by the applicant." The Board finds that the traffic condition, as also reported in the DOT report, will be addressed below as conditions to the granting of this application.

12. No report was received from the Office of Planning and Development.

13. The record was left open at the public hearing to allow the Advisory Neighborhood Commission -7F to submit a written recommendation. ANC-7F reported as follows:

- a. The design of driveways and the alley seem to create possible traffic hazards at the proposed sites facing East Capitol Street. East Capitol Street is a heavy traveled artery most hours.

- b. Due to the large percentage of variances for at least six of the units, we strongly suggest reduction in the total number of dwellings to comply with the allowable space. As several units are below the allowable space, this would alter the need for large percentages of variances. We feel the application to construct the "townhouse development" with twenty-two units seems to provide unison with our existing community with brick frontings, apartments and semi-detached and detached homes.
- c. Sidewalks are already existing on East Capitol side. Sidewalks on the Texas Avenue side would enhance the dwellings. We recommend this application be contingent upon applicants construction of sidewalk along the Texas Avenue side; also the width of both alleys be increased to 16 feet standard.
- d. ANC also noticed the lack of landscaping information.

14. The Board is required by statute to give great weight to the issues and concerns of the ANC. As to the issues of traffic hazards, the sidewalks and the alley, the Board notes that the same issues were raised by the DOT and, in part, by the DHCD. The Board will incorporate below the recommendations of the DOT as conditions to the granting of this application. As to the variances required, the Board finds that the total area of the site is 57,736 square feet, or an average of more than 2,000 square feet of lot area per unit. The Zoning Regulations require an average minimum site area of only 1,800 square feet. The Board thus finds that there is sufficient land area to accommodate twenty-eight units. The variances result from a unique physical feature of the site, that it is triangular in shape. This results in the lots at the corners of the triangle being smaller in size, with a resulting increase in lot occupancy and floor area ratio for the houses on the lots. The Board finds that the physical configuration of the site supports the granting of the variance. The Board further notes that all of the houses themselves are approximately the same size, regardless of the lot size.

15. There was no opposition to the application.

CONCLUSIONS OF LAW:

Based on the record, the Board concludes that the applicant is seeking a special exception and two area variances. As to the special exception, the Board concludes that the applicant has met the requirements of Paragraph 3105.42. The reports of the Departments of Transportation and Housing and Community Development and the Board of Education demonstrate there are adequate public facilities to serve the area, and that the development itself will generate no significant adverse effects if the concerns particularly of DOT are met. Such concerns will be addressed by the Board in conditions attached to approval of the application. The Board concludes that approval of the application will be in harmony with the general purpose and intent of the regulations and maps and will not tend to effect the use of neighboring property.

As to the variances, these are area variances which require a showing of a practical difficulty upon the owner of the property that arises from the property itself. The Board concludes that the triangular shape of the property creates such a difficulty for the owner. The Board further concludes that the construction of twenty-eight substantially similar dwellings on lots of varying sizes and depths will not adversely affect the use of neighboring property and will not impair the intent purpose and integrity of the zone plan.

The Board further concludes that it has accorded to the Advisory Neighborhood Commission the "great weight" to which it is entitled.

Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:

- a. The applicant shall rearrange the houses numbered 13, 14, 15 and 16 as shown on Sheet No. 2 of the plans dated March 5, 1979 marked as Exhibit No. 11 of the record so that the driveway orientation is towards Texas Avenue.
- b. The applicant shall construct a sidewalk along Texas Avenue to meet the specifications of the Department of Transportation.
- c. The applicant shall construct alleys to provide access to the proposed off-street parking to meet the specifications of the Department of Transportation.

- d. The applicant shall dedicate a one foot strip of land to increase each alley width to the standard minimum of sixteen feet for residential alleys.

VOTE: 4-0 (Walter B. Lewis, Charles R. Norris, Connie Fortune and William F. McIntosh to GRANT; Leonard L. McCants not voting, not having heard the case).

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

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

FINAL DATE OF ORDER: 30 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."

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.