

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13297, of Clivedale Investment, Inc., and Paceda Investment, Inc., pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the 900 square feet minimum lot area requirements (Sub-section 3301.1) to use the basement, first, second and third floors of each of the subject premises as an apartment house consisting of four units each in an R-4 District at the premises 1219, 1221 and 1223 - 10th Street, N.W., (Square 368, Lots 821, 822 and 823).

HEARING DATES: July 23 and September 10, 1980
DECISION DATE: October 1, 1980

DISPOSITION: Application DENIED by a vote of 5-0, (Charles R. Norris, Connie Fortune, Theodore F. Mariani, William F. McIntosh and Leonard L. McCants to DENY).

FINAL DATE OF ORDER: December 22, 1980

ORDER

The applicant filed on January 8, 1981, a MOTION for Reconsideration of the Board's DENIAL of the application. Section 5.41 of the Supplemental Rules of Practice and Procedure before the BZA states that a Motion for Reconsideration of a final decision may be filed by a party within ten days. Section 1.62 of the said Rules states that in computing any period of time specified in Part V of these rules, the day of the act, event, or default after which the designated period of time begins to run is not included and also that where service has been effected by mail, two days shall be added to the prescribed period. The date of the Final Order was December 22, 1980. Pursuant to the aforementioned sections of the Rules, the Motion for Reconsideration should have been filed at the office of the Zoning Secretariat on January 3, 1981, which was a Saturday. The motion could therefore have been timely filed if received on or before Monday, January 5, 1981. The Motion was filed on January 8, 1981 at 3:02 p.m.

Upon consideration of these facts, the Board concludes that the Motion for Reconsideration was untimely filed. Accordingly, it is ORDERED that the Motion for Reconsideration is DENIED.

VOTE: 4-0 (Connie Fortune, Charles R. Norris, Douglas J. Patton and William F. McIntosh to DENY).

DECISION DATE: February 4, 1981

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

ATTESTED BY:



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 17 FEB 1981

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."

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13297 of Clivedale Investment, Inc. and Paceda Investment, Inc., pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the 900 square feet minimum lot area requirements (Sub-section 3301.1) to use the basement, first, second and third floors of each of the subject premises as an apartment house consisting of four units each in an R-4 District at the premises 1219, 1221 and 1223 - 10th Street, N.W., (Square 368, Lots 821,822 and 823).

HEARING DATES: July 23 and September 10, 1980
DECISION DATE: October 1, 1980

FINDINGS OF FACT:

1. The application was scheduled to be heard at the public hearing of July 23, 1980 but was continued to September 10, 1980. The applicant had failed to comply with Section 3.33 of the Supplemental Rules of Practice and Procedure before the Board of Zoning Adjustment in that it had posted the subject property six days prior to the public hearing instead of the required ten days.

2. The subject sites are located on the east side of 10th Street, between M and N Streets and are known as 1219,1221 and 1223 - 10th Street, N.W. They are located in an R-4 District.

3. The subject site is rectangular in shape and developed with three row dwellings and a two story garage which was constructed prior to May 12, 1958. These structures are vacant shells. Tenth Street at this location has one-way traffic south-bound, with parking on both sides of the street. The 10th Street frontage in this block consists of row dwellings, vacant lots, and apartment buildings. Many of these structures are in a blighted condition, several from fire damage. The surrounding neighborhood is for the most part zoned R-4.

4. Certificate of Occupancies, No. B-34588, B-34589 and B-34590 were issued on July 7, 1963 for premises 1219,1223 and 1221 - 10th Street, respectively, to be used as a tenement house, all floors and basement.

5. The applicant proposes to use the basement, first, second and third floors of each of the subject premises as apartment houses consisting of four one-bedroom units. Final condemnation orders have been issued for all three subject structures.

6. Pursuant to the Zoning Regulations, a conversion of a building constructed prior to May 12, 1958 to an apartment house containing three or more units requires 900 square feet of lot area for each unit within the building. The subject three lots combined total 7,144 square feet. A variance of 3,656 square feet is requested.

7. The applicant testified that the Urban Commitment Program of the Federal National Mortgage Association is the only mortgage source available for the conversion of the subject premises for rental units. The applicant further testified that the benefits of that program are maximized with the four proposed units and no less a number of units. The applicant also testified that the creation of two unit luxury apartments is not feasible for the subject neighborhood.

8. The architectural plans evidence that if four units are created one unit will contain approximately 550 square feet. The other units approximate 700 square feet of floor area.

9. In reply to the Board's repeated inquiries as to why not construct three units rather than four the applicant testified that the four units maximize the use of the space in the building and that three units would not be financially feasible.

10. The Office of Planning and Development by report filed July 14, 1980 recommended that the application be approved. The Office of Planning and Development reported that 10th Street and the surrounding neighborhood at this location can be characterized as in need of physical revitalization. The applicant's proposal will increase the waning rental stock in the city, where conversions of old shells to luxury condominiums appears to be the norm. The OPD was of the opinion that an exceptional condition does exist with the site, in that the rear yard area of the structures is large by inner-city standards and will provide the residents of the units with desirable open space. Further, the OPD believes that the proposal will not result in an overcrowded situation, but will instead act as a positive impetus for improving the quality and usability of existing structures in this area. For reasons stated below the Board does not concur in the OPD recommendation.

11. As to the findings and recommendations of the Office of Planning and Development, the Board finds that the size of the rear yards of the structures is not an exceptional condition affecting the number of units to be permitted in the building. Such condition is unrelated to the size of the lots, which are all more than 2,370 square feet in area and more than seventeen feet in width. The Board further finds that the proposal will result in overcrowding of the particular buildings at issue. One of the units will have only 550 square feet of floor area and is only ten feet wide for the majority of its depth.

12. There were nine letters of record in support of the application on the grounds that the development of these vacant properties will provide needed jobs for local workers, combat the significant blight in the area and significantly improve the physical appearance and safety of the neighborhood.

13. There was no opposition to the application at the public hearing or of record.

14. Advisory Neighborhood Commission 2C by letter of July 23, 1980 recommended that the application be approved. It stated no reasons for its support.

15. The Board is required by statute to give great weight to the issues and concerns of the ANC as expressed in writing. In the subject application no issues and concerns were expressed. No grounds were stated for the recommendation of the application. Accordingly, the Board has nothing to address.

CONCLUSIONS OF LAW:

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 that is inherent in the property. The Board concludes that there is no such practical difficulty. The site is rectangular in shape and flat. The site possesses no peculiar physical characteristics. The only difficulty present is a financial difficulty as a result of which the applicant is overcrowding the site and increasing the density. The financial difficulties alleged are not a proper basis for the granting of this variance. The Board further concludes that a variance of 3,656 square feet for the site is too great a variance. The Board is aware of the lack of opposition and some support for the application. The support appears to be based on social reasons. Such reasons as improving the blight of the neighborhood, creating jobs, and providing rental housing are not grounds by themselves for granting area variances. The Board further concludes that the application cannot be granted without substantial detriment to 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: 5-0 (Charles R. Norris, Connie Fortune, Theodore F. Mariani, William F. McIntosh and Leonard L. McCants to deny).

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

ATTESTED BY: 
STEVEN E. SHER
Executive Director

BZA Application No. 13297
Page 4

FINAL DATE OF ORDER: 22 DEC 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."