

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13334, of Dubrey and Company, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the parking requirements (Sub-section 7202.1) to use all floors of the subject premises as apartment house consisting of nine units in an R-5-B District at the premises 2021 Kalorama Road, N.W., (Square 2540, Lot 835).

HEARING DATE: September 17, 1980
DECISION DATE: October 1, 1980

FINDINGS OF FACT:

1. The subject property is located in an R-5-B District on the north side of Kalorama Road between 20th Street and Connecticut Avenue, N.W.
2. The subject property is 18.75 feet wide and approximately 100 feet deep. It has an area of 1,896.94 square feet.
3. The subject property is improved with a four story plus basement brick row structure. The building occupies almost all of the lot.
4. The building is presently vacant. The last permitted use was as a rooming house with seven bedrooms, as authorized by Certificate of Occupancy No. B-82983.
5. The applicant proposes to renovate and use all floors of the building as an apartment house consisting of nine units. Such use is permitted as a matter-of-right in the R-5-B District.
6. Sub-section 7202.1 requires one parking space for a seven room rooming house, and five parking spaces for a nine unit apartment house in an R-5-B District. Pursuant to Sub-section 7201.2 of the regulations, the applicant in this case is required to provide the difference between the requirement for the proposed use and the requirement for the previous use, or four spaces.

7. No off-street parking spaces have been provided on the lot in the past, and the applicant proposes to provide no spaces now. A variance of the four spaces is thus required.

8. The open space at the rear of the house is not large enough to serve as a parking space. The representative of the applicant further testified that he was not able to obtain other off-street parking in the area.

9. The basement, first, second and third floors of the building are each proposed to contain one efficiency and one one-bedroom apartment. The fourth floor, which does not extend for the full depth of the other floors, would have only a one-bedroom apartment.

10. The building contains approximately 4,900 square feet of gross floor area. This is a floor area ratio of approximately 2.6. The normally permitted maximum FAR in an R-5-B District is 1.8

11. The building area of the existing building is approximately 1500 square feet. This is a percentage of lot occupancy of almost eighty percent. The normally permitted maximum percentage of lot occupancy is sixty percent.

12. The existing building is substantially non-conforming as to floor area ratio and lot occupancy.

13. The representative of the applicant argued that granting the variance would have no adverse effect because of the relatively low number of vehicles which would be associated with efficiency and one-bedroom units. The applicant's representative testified that in other rental units he managed, the average car ownership for one bedroom units was 0.54 cars per household, and for two bedroom units the average was 1.2 cars per household. These numbers were derived from housing units located in the Dupont Circle area.

14. The representative of the applicant further argued that based on the differences in car ownership patterns, the likely number of automobiles owned for the building would not be significantly different if the building had three, five, seven or nine units, depending on the size of the units.

15. The representative of the applicant further argued that the economics of the renovation of the building required nine units in order for the venture to be financially feasible. The applicant submitted a cost statement, marked as Exhibit No. 22 of the record, in support of this argument.

16. A representative of Advisory Neighborhood Commission 1C appeared and testified at the hearing. The ANC opposed the application on the grounds that the existing parking problem in the area is already critical. The ANC argued that nine units in the building at the rent levels projected would generate an excessive demand for on-street parking in the area. The ANC also noted that there are eight other buildings in the block that are subject to being converted to apartments, and that the granting of the requested variance would set a precedent for the remaining buildings, therefore exacerbating the parking situation.

17. There was opposition to the application from other property owners in the area on the same grounds cited by the ANC. The applicant submitted a statement from the owners of five properties in the block, including the two abutting properties, in support of the application. No grounds for the support were stated.

18. The Board finds that the proposed number of units to be located in the building will generate a significant number of vehicles which will adversely effect parking conditions in the area. The statistics cited by the applicant are based on a very small sample of units. Furthermore, those units are much closer to rail transit and have a much greater degree of accessibility by mass Transit than the subject location. This would allow a lower level of car ownership. Even accepting the applicant's figure of 0.54 cars per household for one bedroom units, this would result in five cars generated from nine units. Given the existing serious lack of parking in the area, this would create an adverse effect.

19. The Board agrees with the ANC that there is an existing parking problem in the area of serious dimension. The Board further agrees that allowing nine units in the building with no provision for off-street parking spaces is excessive. The Board finds that the existing building is substantially non-conforming already in terms of its bulk and density on the site. Allowing the applicant to include nine units in the building would overburden the site and negatively impact the area. As to the ANC's concern over precedent, the Board has consistently stated that it must decide each case on its own merits based on the specific set of facts presented therein. The Board is unable to determine whether the circumstance in the eight other properties alluded to by the ANC are sufficiently the same as in the subject case for the Board to be setting any kind of precedent.

CONCLUSIONS OF LAW AND OPINION:

Based on the record and the Findings of Fact as set forth, the Board concludes that the applicant is seeking an area variance. In order to be granted an area variance, the applicant must meet three tests as set forth in Paragraph 8207.11 of the Zoning Regulations and the Zoning Act. First, there must be an extraordinary or exceptional condition of the property itself. Second, the strict application of the Regulations must create a practical difficulty for the owner of the property in complying with the Regulations. Third, the granting of the variance must not cause substantial detriment to the public good or substantially impair the intent purpose and integrity of the zone plan as embodied in the Zoning Regulations and Maps.

The Board concludes that the size of the subject property and the configuration of the existing building is an extraordinary condition, in that there is no area on the property to provide parking spaces. The Board concludes however that the applicant has not sufficiently demonstrated how the strict application of the regulations would create a practical difficulty for him. The economics of the renovation of the building, as set forth by the applicant, by itself is not a sufficient basis. There is no evidence that the price of the building was reasonable, that the cost of renovation was reasonable and that the applicant could not reasonably comply with the regulations by reducing the number of units.

The Board further concludes that the number of units as proposed would cause a substantial detriment to the public good and would impair the intent and purposes of the zone plan. A substantial variance is requested. Four parking spaces are necessary, none is to be provided. Even assuming the applicant's calculation are correct, there will be a demand for five parking spaces. Given the very scarce availability of parking in the neighborhood at present, the addition of four or five more cars seeking spaces will adversely effect the public good. Furthermore, the existing building already exceeds the permitted FAR and lot occupancy. To compound that non-conformity, the applicant proposes to put an excessive number of units into the building. That is contrary to the intent and purposes of the R-5-B District.

The Board concludes that it has accorded to the Advisory Neighborhood Commission the "great weight" to which it is entitled. It is therefore hereby ORDERED that the application is DENIED.

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VOTE: 5-0 (Theodore F. Mariani, Connie Fortune, Leonard L. McCants
William F. McIntosh and Charles R. Norris, to DENY)

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

ATTESTED BY: _____


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: _____

23 JAN 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."