

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13415, of Horning Associates, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for special exceptions under Paragraph 3105.42 to permit a group of apartment houses with division walls from the ground up to be deemed a single building, under Sub-section 7205.3 to allow open required parking spaces to be located in other than the rear yard of an apartment house and for a variance from the number of stories (Sub-section 3201.1) all to permit the construction of five apartment houses instead of sixty-seven townhouses previously approved by the Board in Application No. 12815 in an R-5-A District at the premises 290, 300, 380, 390, 310, 320, 330, 340, 350, 360 and 370 Taylor Street, N.E., (Square 3664, Lot 824).

HEARING DATES: January 28 and February 4, 1981
DECISION DATE: February 4, 1981 (Bench Decision)

FINDINGS OF FACT:

1. The subject property is located in an R-5-A District on the north side of Taylor Street between 2nd Street and Hawaii Avenue, N.E. The site has frontage on both Taylor, Varnum and 2nd Streets.

2. The subject property is a 5.8 acre parcel which is part of a 13.1 acre tract, formerly Lot 809 in Square 3664, that has been the subject of three prior Zoning Commission and Board of Zoning Adjustment actions. By Order No. 259, dated January 11, 1979, the Zoning Commission approved rezoning of a 1.8 acre parcel from R-5-A to C-1 to permit the construction of a neighborhood shopping facility of approximately 13,000 square feet. By Order dated March 2, 1979, in Application No. 12815, the Board approved, subject to conditions, the construction of sixty-seven fee simple townhouses on the subject property and 150 apartment units on a 5.5 acre parcel situated between the subject parcel and the 1.8 acre commercial parcel. By Order dated May 3, 1979, the Board approved modifications to the previously approved plans for construction of apartment units on the 5.5 acre parcel to permit, among other minor changes, the construction of 153 apartment units instead of 150. The overall project is known as "The Heights."

3. The shopping facility and the 153-unit apartment complex are substantially completed and occupied.

4. In the subject application, the applicant has requested that the Board approve revised plans, marked as Exhibit No. 15 of the record, which propose, among other things, the construction of 170 rental apartment units in five buildings in lieu of the sixty-seven fee simple townhouses previously approved. The parking layout would also change to compensate for the increase in units. The total number of bedrooms would increase from 201 for sixty-seven fee simple townhouses to 259 for 170 apartment units. The proposed apartments would have seventy-nine one bedroom units and ninety two bedroom units.

5. The original plans for the entire residential development would have had a floor area ratio of 0.43. The overall development is now proposed to have a floor area ratio of 0.59. The maximum permitted FAR in an R-5-A District is 0.9.

6. The plans previously approved had an overall lot occupancy of 13.9 per cent. The proposed plans would result in an overall occupancy of 14.8 per cent, still well below the maximum permitted occupancy of forty per cent. The percentage of the site devoted to open space has been reduced only slightly, from seventy percent to sixty-eight percent.

7. The total number of units in the project is proposed to be increased from 220 to 323. The total number of bedrooms would be increased from 432 to 490.

8. The number of proposed parking spaces would be increased from 260 to 323. There would be one parking space for each dwelling unit.

9. The revised plans propose the construction of apartments virtually identical in scale, materials and overall appearance to those already approved and constructed.

10. The applicant introduced testimony at the public hearing showing that economic circumstances have drastically changed since the original plans were approved initially in March, 1979 so that fee simple townhouses for sale are no longer feasible. A thirty-five percent increase in construction costs and a forty-three percent increase in financing costs were cited by the applicant. In addition, three specific projects in the immediate vicinity with large numbers of unsold houses were mentioned, including the applicant's partially completed project at 14th and Gallatin Streets, N.E., where construction has halted on the last ten of forty scheduled townhouses because of a lack of buyer interest.

11. The applicant contrasted the for-sale market conditions to rental apartment market conditions. Demand for the completed units has been exceptional. Rare, below market financing has been arranged for the proposed apartments. The special tandem financing results in projected rents at least \$100 per month below the rents that otherwise would be charged for the proposed units.

12. The applicant seeks a special exception under Sub-section 3302.2 to permit the 170 apartment units to be considered as being in five separate buildings.

13. No rear or service entrance abuts a street, front yard or front court.

14. No exterior stairway is constructed above the level of the joists of the main floor.

15. Vehicular access to all the buildings is provided by way of a private driveway from Taylor Street.

16. The R-5-A District normally limits building heights to forty feet and three stories. All the buildings are less than forty feet in height. However, because of the change in grade on the property, the buildings are four stories in height. A variance from the requirements of Sub-section 3201.1 is thus required.

17. The elevation of the property changes significantly from one side of the site to the other. The elevation at the driveway entrance on Taylor Street is 290 feet, the elevation at the north-east corner of the site is 260 and the elevation at the northwest corner of the site is approximately 240.

18. The parking spaces for the units are located off the access driveway in front of the apartment units. The applicant therefore seeks a special exception under Sub-section 7205.3 to locate the parking spaces in other than the rear or side yard of the building.

19. The topography of the subject site, when combined with the desire to preserve the maximum amount of undisturbed areas, makes it impractical to locate the spaces in the side or rear yards.

20. The spaces are located directly in front of the buildings, convenient to the entrances to the apartments.

21. The application was referred to the Office of Planning Development, the Board of Education, and the Departments of Transportation and Housing and Community Development.

22. The Office of Planning and Development, by memorandum received on January 30, 1980 and by testimony at the public hearing, recommended that the application be approved. The OPD reported that "the increase in total units on the site is considered positive in helping meet the critical shortage of rental housing in the city." The OPD supported the requested variance on the grounds that it is "necessitated by the topography of the site and the desirability of maintaining design harmony in the existing and proposed apartment buildings." The Board concurs with the findings and recommendations of the OPD.

23. The Department of Transportation, by memorandum dated January 27, 1981, reported that the modified project will not measurably change the level of service identified with the previously approved project. The Department advised that the driveway plan is satisfactory. The Department noted that "the applicant will be required to bear the related costs of modifying the signal system and other features related to traffic control and operations." The Board concurs with the findings and recommendations of the DOT.

24. Advisory Neighborhood Commission 4D did not submit any statement or comment. However, Mr. Lawrence Holmes, ANC Commissioner for the single member district within which the project is located, submitted a letter supporting the modified proposal.

25. Catholic University, owner of property to the south across Taylor Street, submitted a letter supporting the modified proposal.

26. There was no citizen or other opposition to the application.

CONCLUSIONS OF LAW AND OPINION:

The Board concludes that the applicant is seeking three special exceptions and a variance. In order to be granted the special exceptions, the applicant must demonstrate that it has complied with the requirements of Paragraph 3105.42 and Sub-section 3307.2, 7205.3 and 8207.2. The Board concludes that the applicant has as complied, as set forth in the findings of fact.

Based on the findings of fact and the evidence of record, the Board concludes that the requested variance is an area variance, the granting of which requires the showing of an exceptional or extraordinary condition of the property which creates a practical difficulty for the owner. The Board concludes that the topographical conditions of the property constitute such a condition and that strict application of the regulations would cause a practical difficulty for the applicant.

The Board concludes that the proposed modifications are a reasonable response to circumstances unforeseen at the time approval was granted for the construction of sixty-seven fee simple townhouses and 153 apartment units at the site. The Board notes that the proposed apartment units are virtually identical to those already constructed, and that density and other development characteristics, even taking the modifications into account, are still well within the stated parameters of the R-5-A District. The Board makes particular note of the fact that sixty-eight per cent of the site, net of buildings and impervious surfaces, will be undisturbed, leaving a natural green buffer around most of the site perimeter, and that rental housing is in critically short supply in the District of Columbia.

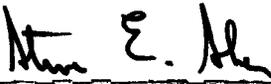
The Board concludes that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and maps. The Board further concludes that the special exception can be granted as 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 regulations and maps. It is therefore ORDERED that the application is GRANTED, subject to the following CONDITIONS:

1. The applicant shall develop the property in accordance with plans filed as Exhibit No. 15 of the record.
2. The applicant will be required to bear the related costs of modifying the signal system and other features related to traffic control and operations.

VOTE: 5-0 (Charles R. Norris, William F. McIntosh, Connie Fortune, Walter B. Lewis and Douglas J. Patton to GRANT).

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

ATTESTED BY:



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 5 MAR 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."

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.