

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13522, of Sherman S. Howard, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the use provisions (Section 3102), the lot area and width requirements (Sub-sections 3301.1 and 7615.2), the lot occupancy requirements (Sub-sections 3303.1 and 7615.2), the rear yard requirements (Sub-sections 3304.1 and 7615.2), and the front yard requirements (Sub-section 7615.3) for a proposed theoretical subdivision and new residential development comprising five row dwellings and one detached dwelling in an R-2 District at the premises 6429-6439 Piney Branch Road, N.W., (Square 2975, Lot 811).

HEARING DATES: July 22, 1981 and September 23, 1981
DECISION DATE: September 23, 1981 (Bench Decision)

ORDER

1. The subject application was first scheduled for the public hearing of July 22, 1981. At the public hearing, several persons in opposition testified that the list of property owners within 200 feet of the subject site was not complete. Three of the opposition parties, all of whom lived within 200 feet of the site, testified that they had not received official notice. The opposition also supplied names to the Board of other parties who had received no notice. The Board checked the list submitted by the applicant with the Baist Atlas and confirmed that the list was incomplete. The applicant further indicated that he was not prepared to proceed. The Board ruled that the case would be continued. The Chairman directly advised the applicant that the application would have to be readvertised.
2. The application was scheduled for the second time for the public hearing of September 23, 1981. The application was scheduled for the preliminary calendar of the public hearing since the applicant had not filed an affidavit that he had posted the subject property at least ten days prior to the scheduled public hearing of September 23, 1981 as required by Section 3.33 of the Supplemental Rules of Practice and Procedure before the BZA. At the public hearing, the applicant advised the Board that he was not aware that he had to post the property again. A review of the record and transcript of the public hearing of July 22, 1981 evidenced that the Board had advised that the case would have to be readvertised. The file also disclosed that, by letter of the Executive Director of the Zoning Secretariat dated August 21, 1981, paragraph four, the applicant was advised specifically to post the property and file an affidavit to that effect. The applicant requested a further continuance of the hearing.

3. A person in opposition present at the public hearing objected to the continuance of the public hearing on the grounds that this was the second time she had taken time off from work to be present to oppose the application on its merits. The applicant had two occasions to present its case and still the applicant was not ready. The opposition requested that the application be dismissed. The Board concurs with the opposition.

Accordingly, it is ORDERED that the application is DISMISSED WITHOUT PREJUDICE.

VOTE: 4-0 (Walter B. Lewis, William F. McIntosh, Charles R. Norris and Connie Fortune to DISMISS; Douglas J. Patton not present, not voting).

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

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

FINAL DATE OF ORDER: 14 OCT 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."