

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 13559, of the Ruppert Home for the Aged, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the use provisions (Sub-section 3102.3) and from the prohibition against allowing required accessory parking in front of a structure (Paragraph 7205.12) to permit construction of an eleemosynary institution comprising 150 units in an R-2 District at the premises 2200 T Place, S.E., (Square 5621, Lot 802).

HEARING DATE: October 14, 1981  
DECISION DATE: October 14, 1981 (Bench Decision)

FINDINGS OF FACT:

1. The subject property is known as premises 2200 T Place, S.E. It is in an R-2 District.
2. The area of the site is approximately four acres. The site is vacant and undeveloped. It abuts a large area zoned R-2 which is developed with semi-detached single family units and non-conforming community houses consisting of three attached single family units. The overall density of development of this area is compatible with the R-2 density. The neighborhood is well maintained. The site borders to the north and to the east areas zoned R-5-A and R-5-B. These areas are developed with garden apartments, such as the Hillside Terrace, and medium density highrise apartments, such as the Marbury Plaza.
3. The site has severe changes in elevation. The portion of the site adjacent to the Marbury Plaza complex where the Ruppert Home was previously located is generally flat. However, the property slopes steeply to the north and to the west. There is a difference in grade of approximately thirty feet from the easterly to the westerly side of the property. Access to the site is available from a driveway along the western end of the Marbury Plaza complex, from T Place, and from a sixteen foot alley to the west. Twenty-second Street is not continued through the property and has the status of a paper street.
4. The subject site was previously improved with a two-story structure, the Ruppert Home for the Aged. Records indicate that, in 1975, the Board of Zoning Adjustment granted permission under BZA Order No. 11883 to change the non-conforming use from a house for the aged to a nursing

home. The nursing home was to accommodate no more than forty occupants. The structure has since been demolished following substantial damage due to a fire.

5. The applicant requested a zoning map change from R-2 to R-4 on the Ruppert Home site in 1977, Z.C. Case No. 77-29. This application was denied by the Zoning Commission without public hearing and without prejudice to the refileing of a subsequent application by Z.C. Order No. 193. The Zoning Commission noted in Order No. 193 that "the Planned Unit Development process as contained in Section 7501 of the Zoning Regulations provided a mechanism for review of development proposals for a site, and also provides flexibility in design of a site. This process is available to the applicant in this site. "The applicant then submitted a Planned Unit Development proposal in 1979 with a request for a change from R-2 to R-4 to develop the site with 115 dwelling units in flats and apartments. The Zoning Commission denied this application in 1981 after holding numerous public hearings. The Commission decided that the proposed level of development would have an adverse impact on the surrounding neighborhood. The applicant is now before the Board of Zoning Adjustment requesting variances to permit the construction of a nine story apartment house on the site comprising 150 units.

6. The applicant now proposes to construct a ten story apartment house on the site comprising 150 units. Elderly and handicapped senior citizens will occupy the premises. When the application was first filed, the relief sought was through a special exception under Paragraph 3101.49. The applicant was subsequently advised that the Zoning Commission on July 9, 1981 adopted Order No. 347 relating to community based residential facilities and that Paragraph 3101.49 was eliminated. The applicant now seeks its relief through a variance from the use provisions for an eleemosynary institution.

7. Paragraph 8207.11 of the Zoning Regulations provides the basis for the variance relief sought. It provides that "Where, by reason of exceptional narrowness, shallowness or shape of specific piece of property at the time of the original adoption of the regulations or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under this Act would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property, to authorize, upon an appeal relating to such property, a variance from such strict application so as to relieve such difficulties or hardship, provided such 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 map."

8. The applicant's evidence focused on the need for housing for senior citizens. The applicant presented no evidence in compliance with Paragraph 8207.11 to establish that the subject property could not be used for the purpose for which it was zoned. The applicant alleged that it would not be economically feasible to construct semi-detached houses on the site for the use of senior citizens. The applicant presented no probative evidence to support the claim, and further offered no evidence that the site could not be used for some other permitted use.

9. The applicant offered no probative evidence to meet the requirements to be granted a parking variance from Paragraph 7205.12.

10. The Chair DENIED the applicant's request for a continuance so that the applicant could address itself to Paragraph 8207.11 on the grounds that the applicant had had sufficient time to prepare its case prior to the public hearing and that more than two hours at the public hearing had already been devoted to the applicant's case.

11. The Board denied the applicant's request to WITHDRAW the application, as the Board had spent more than two hours in hearing the case.

12. Neither the Office of Planning and Development, Advisory Neighborhood Commission, nor the opposition presented its case at the public hearing.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant is seeking a use variance and an area variance, the granting of which requires proof of a hardship that is inherent in the land and a practical difficulty, that is inherent in the land, respectively. The Burden of proof is on the applicant. The Board concludes that the burden of proof was not met and the application must be DENIED. Accordingly, it is ORDERED that the application is DENIED on its merits.

VOTE: 4-0 to DENY the WITHDRAWAL and DENY the application on its merits (Walter B. Lewis, Charles R. Norris, William F. McIntosh and Connie Fortune to DENY; 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:

JAN 23 1982

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."