

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13594, of Ferdinand T. Schneider, Jr., pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the side yard requirements (Sub-section 3305.1) for a proposed new apartment house and clinic for humans in an R-5-D District at the premises 2106 F Street, N.W., also known as 550 - 21st Street, N.W., (Square 81, Lot 83).

HEARING DATE: November 10, 1981

DECISION DATE: November 10, 1981 (Bench Decision)

FINDINGS OF FACT:

1. The subject property is located in an R-5-D District on the southwest corner of the intersection of F Street and 21st Street, N.W.
2. The lot is rectangular in shape, with 65.42 feet of frontage on F Street and 117.92 feet of frontage on 21st Street. It has an area of 7,714.33 square feet.
3. The lot is presently occupied by a five-story concrete apartment building known as the Clermont.
4. The applicant proposes to demolish the existing building and construct a residential apartment condominium and a clinic for humans on the site. A residential apartment use and a clinic for humans are uses permitted as a matter-of-right in the R-5-D District.
5. The plans, as originally reviewed by the Zoning Administrator's Office and submitted to the Board, showed that a variance to the side yard requirements of the Regulations was necessary.
6. Subsequently, the applicant retained a new architect who submitted revised plans to the Zoning Administrator's Office on or about August 19, 1981, said plans as revised and reviewed being identified as Exhibit No. 17 of the record.
7. By memorandum to the Board dated November 9, 1981, the Zoning Administrator's Office found that the revised plans also required a variance to the side yard requirements of the Regulations, said variance to be similar in degree to that requested under the original plans by the applicant.

8. The revised plans presented by the applicant sought to preserve light and air access to the reduced side yard by stepping back the ninth and tenth floors of the building along a substantial distance of the side yard, such that the building at that level substantially complied with the side yard requirements of the Regulations. The step-back at the ninth and tenth floors of the building begins at a distance approximately twenty-five feet in back of the lot line of the property along F Street, in order to preserve the architectural integrity of the facade of the proposed building for a full ten stories on the F Street, N.W., streetscape.

9. Sub-section 3305.4 of the Regulations provides that when a building does not share a common wall with an existing building or a building being constructed together with the new building, it shall have a side yard on each resulting free-standing side, as required by Section 3305.1 of the Regulations.

10. The subject property adjoins a lot, of similar size and dimensions which is vacant and without improvements, and which was the subject of an application to the Board for variances, including a variance to the side yard requirements of the Regulations. The Board, in Application No. 13327, granted a variance to the side yard requirements of the Regulations, thereby assuring that any building constructed on that lot would not be built to the side lot lines of the lot.

11. The applicant is thus unable to construct a building which will share a common division wall with another building. A side yard is thus required. For a ninety-foot building, as proposed by the plans, a side yard must be a minimum of 22.5 feet wide. Since the applicant proposes a side yard of only eight feet, a variance of 14.5 feet is required.

12. If a side yard meeting the requirements of the Regulations were provided, only 42.91 feet of the lot could be developed. A building with a width of only 42.91 feet would be poorly designed, extremely narrow, and would not be a benefit for the occupants or for the city as a whole.

13. Advisory Neighborhood Commission - 2A by Resolution #J-7 dated October 20, 1981, stated that it had reviewed the revised plans of the applicant and that it did not oppose the granting of the zoning variance as requested by the applicant. The ANC did request the Board to include in its order provisions which (a) would restrict clinic use in the proposed building to the cellar area of the building and (b) would limit use of the remainder of the building for "long-term, bona fide residential housing and not transient, time-sharing or other nonresidential use."

14. A representative of the applicant, by letter to the Board dated November 4, 1981, and by testimony at the hearing, stated that the applicant did not object to the inclusion in any order of the Board granting the variance, provisions dealing with the two concerns identified by the Advisory Neighborhood Commission. The Board will so order.

15. No party appeared in opposition to the application, although a representative of the Monroe House Tenants Association delivered a statement advising the Board of its concerns that sufficient off-street parking may not be available in the proposed building to satisfy the needs of both the residential and clinic uses. The Board noted the Association's concern, but advised the Association that the number of off-street parking spaces proposed in the revised plan was in accordance with the Regulations and that, therefore, the subject of the sufficiency of the off-street parking facility of the proposed building was not before the Board under this application.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact, and the evidence of record, the Board concludes that the requested side yard 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 width of the lot and lack of an adjoining building with which the proposed building could share a common division wall combine to create an exceptional condition. The Board further concludes that the strict application of the Regulations would create a practical difficulty for the owner in that the building which would result would be poorly designed and functionally unattractive.

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 concludes that it has accorded to the Advisory Neighborhood Commission the "great weight" to which it is entitled. It is therefore ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:

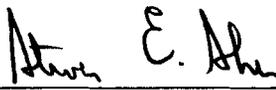
- (a) The use of a portion of the proposed building as a clinic for humans shall be restricted to the cellar of the proposed building, except for portions of the ground level of the building which provide an entrance and access, including handicapped access, to the cellar level clinic, as shown on the plans identified as Exhibit No. 17 of the record.

- (b) The floors of the proposed building, above the cellar level, other than as specified in paragraph (a) immediately above, as shown on the plans marked as Exhibit No. 17 of the record, shall be used solely for long-term, bona fide residential housing and residentially-related uses (i.e., lobby area, community rooms for residential unit owners), and may not be used for transient, timesharing, or other similar types of residential occupancies.

VOTE: 3-0 (Connie Fortune, Charles R. Norris and Walter B. Lewis to GRANT; Douglas J. Patton and William F. McIntosh not present, not voting).

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

ATTESTED BY:



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: JAN 18 1992

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.