

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**BOARD OF ZONING ADJUSTMENT**



Application No. 13656, of Roland and Louise Butler, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Sub-section 7205.3 to permit the required accessory parking spaces to be located on a lot other than the lot upon which the subject structure is located for a proposed twenty-four unit apartment house in an R-4 District at the premises 429 Kenyon Street, N.W., (Square 3045, Lot 65).

HEARING DATE: January 27, 1982  
DECISION DATE: January 27, 1982 (Bench Decision)

FINDINGS OF FACT:

1. By letter dated September 18, 1981, the applicant requested an expedited hearing in the subject case. At the public meeting of October 7, 1981, the Chair denied the request for an expedited hearing. The Chair did not find that the financial situation of the applicant and the deterioration of the structure sufficient grounds to advance the subject application over those applications that were filed previously to it.

2. The subject property is located on the north side of Kenyon Street between Warder Street and Park Place and is known as 429 Kenyon Street, N.W. It is in an R-4 District.

3. The subject site is rectangular in shape and is developed with a three-story apartment building. The apartment building has a valid Certificate of Occupancy dated August 31, 1950 for a "co-op apartment house." The building is presently vacant and is in need of extensive repairs.

4. The applicant proposes to gut the interior of the building and to convert the existing nine units to twenty-four efficiency and one-bedroom units. It is proposed that the building will be placed under a condominium ownership arrangement after it has been rehabilitated. The area of lot 65 on which the apartment house is located is 7,254 square feet for nine apartments, a density of approximately 800 square feet per unit. This would compare closely with the permitted density of development of 900 square feet per dwelling unit in an R-4 District. The density of development proposed by the

applicant is approximately 300 square feet per dwelling unit, which is considerably more than R-4 density.

5. The parking requirement for apartments in R-4 Districts is that one parking space for each three dwelling units be provided, so that eight spaces would be required for twenty four-units. However, the existing building is eligible for a parking credit for three spaces. The Zoning Administrator has determined that only five spaces are required for a total of twenty-four dwelling units. The applicants propose to provide two parking spaces on the subject lot at the rear of the building. The applicants then propose to provide an additional ten spaces on an alley lot to the rear of the subject premises, Lot 87, which they own. A total of twelve spaces are proposed for the twenty-four proposed units.

6. Mr. Roland Butler, one of the applicants, was unfamiliar with the traffic patterns of the streets surrounding the alley lot on which he proposed to place the ten parking spaces. He neither testified to nor submitted any probative evidence that the proposed parking use would not have an adverse affect on neighboring property.

7. At the close of the presentation of his case, Mr. Butler requested that the public hearing be continued to allow him time to obtain an attorney and to better prepare his case. The opposition present at the public hearing was opposed to the request. The Chair ruled that the request for continuance be denied in that the applicant had sufficient time between the filing of his application and the hearing date to obtain counsel and gather documentation of the facts necessary to provide his case.

8. Mr. Brian Walsh, resident of 3218 Park Place, N.W., appeared in opposition to the application at the public hearing. The rear of his property abuts the alley on which the accessory parking is proposed to be located. Mr. Walsh testified that the subject building has been gutted and allowed to become an eyesore and a hazard in the neighborhood. He also testified that parking on the alley lot is not desirable because, in his opinion, the subject alley is too narrow to handle the traffic and because there is an existing problem with residents parking illegally in the alley. He also testified that Lamont Street is two-way and Kenyon Street is one-way traveling west. He testified that parking in the area is already inadequate due to overflow parking from the Washington Hospital Center, Childrens' Hospital and the Veterans Administration Hospital and that parking in the neighborhood is restricted two days a week for street cleaning. It was his opinion that the increased density at this site will add to the existing parking problem. The opposition's main concern was not the twelve spaces that the applicant proposes, but the lack of

spaces for twelve other prospective owners in the subject structure. The opposition conceded that the proposed twelve spaces would meet the needs of twelve owners and as such they would not then be disruptive of the neighborhood. Twelve owners without parking spaces would be displacing other community residents on the streets, create double parking in the alley and parking in public space. The Board, in addressing the concerns of the opposition, finds as recited in Finding No. 5 that the applicant is requested to provide only five parking spaces. He has no burden to provide twenty-four spaces. The issue in this application is not density. The applicant can have an apartment house as a matter-of-right, but must provide the required parking of five spaces. If the applicant had established no adverse affect from the proposed use of the alley lot for parking, the Board would have granted the requested relief.

9. The applicant testified at the public hearing that he has not met with the residents of the community or the Advisory Neighborhood Commission to advise them of his plans.

10. The Office of Planning and Development, by memorandum dated January 25, 1982, recommended that the application be denied based on the increased density in an area that is already congested in terms of population and traffic, even though the required number of parking spaces can be provided on the alley lot. The Board does not concur in the OPD recommendation. The Board finds that the issue of density is not dispositive of this case.

11. Advisory Neighborhood Commission 1A made no recommendation on this application.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the applicant is seeking a special exception to provide accessory parking on a lot other than that upon which the subject structure is located. In order for the Board to grant this relief through the special exception process, the applicant must demonstrate to the Board that he has met the requirements of Sub-section 7205.3 through substantial evidence and that the relief requested will be in harmony with the general purpose and intent of the Zoning Regulations and will not tend to adversely affect the use of neighboring property. The burden is upon the applicant to prove his case. The Board concludes that the applicant has not met this burden of proof in the subject case as evidenced in Finding No. 6. The Board concludes that the applicant was unprepared, and did not address the standards set forth in Sub-section 7205.3 against which the Board must judge the application.

Accordingly, it is ORDERED that the application is DENIED WITHOUT PREJUDICE to the refiling of a future application.

VOTE: 5-0 ( Douglas J. Patton, Connie Fortune, William F. McIntosh, John G. Parsons and Charles R. Norris to Deny without Prejudice)

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

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

FINAL DATE OF ORDER: MAY - 6 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."