

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 13910, of Victor D. and Christine S. Wenk, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the prohibition against allowing a private garage serving as a principal use to be located less than fifty feet from a building line (Paragraph 7401.13) and from the prohibition against permitting a subdivision creating lots which will not meet the setback requirements (Sub-section 1302.2) in an R-1-B District at premises 3803 Huntington Street, N. W., (Square 1853, Lot 823).

HEARING DATE: February 9, 1983

DECISION DATE: March 2, 1983

FINDINGS OF FACT:

1. The subject property is located on the northeast corner of the intersection of Huntington Street and Reno Road and is known as 3803 Huntington Street, N. W. It is zoned R-1-B.
2. The subject lot contains approximately 11,960 square feet of land area. It is basically rectangular in shape with the exception of a triangular portion which abuts the public alley and Reno Road on the western side of the site.
3. The subject site is presently improved with a two-story frame detached single family dwelling and a one-story frame detached garage.
4. The applicant proposes to subdivide the property into two separate lots. The existing single family dwelling would be located on the larger of the two lots, which would contain approximately 6,915.7 square feet of land area. The existing garage would become the principal building on the remaining lot, which would contain approximately 5,000.3 square feet of land area.
5. Paragraph 7401.13 of the Zoning Regulations provides as follows:

"7401.13 A private garage permitted in a Residence District as a principal use on a lot other than an alley lot shall open directly onto an alley and shall not be located within 50 feet of any building line or within 12 feet of the center line of the alley upon

which it opens. The lot upon which such garage is located shall be exempt from the requirements for minimum lot dimensions but shall be subject to the limitation on percentage of lot occupancy for the district in which located."

6. The existing garage is 43.4 feet from the building line. Therefore a variance of 6.6 feet or 13.2 per cent is needed, as well as a variance from the strict application of Sub-section 1302.2.

7. The applicant projects that the lot upon which the garage is located will be built upon or sold at some point in the future. During the interim period, the applicant plans to refurbish the existing garage structure and use it for off-street parking.

8. The existing garage structure is not presently used for parking because of its deteriorated condition and because the difference in grade between the slab floor of the garage and the alley causes rain and loose soil to accumulate on the garage floor.

9. Sub-section 1302.2 provides as follows:

"1302.2 Where a lot is hereafter divided, the division shall be effected in such a manner as not to violate provision of these regulations for yards, courts, other open space, minimum lot width, minimum lot area, floor area ratio, percentage of lot occupancy, parking spaces, or loading berths applicable to said lot or any lot created."

10. The applicant testified that if the existing garage were removed, the proposed subdivision could be accomplished without variance relief. However, because of the size and shape of the lot after subdivision, no private garage which would meet the required fifty foot setback could be constructed on the lot within the property lines.

11. The applicant sent a letter and form response explaining the requested relief to property owners within 200 feet of the subject site. Of the twelve responses to the letter, eight persons supported the application, four persons did not oppose the application and no opposition was noted. Five property owners did not respond.

12. The owner of the property across the alley immediately to the west of the subject site appeared at the public hearing in opposition to the application. The opposition was based on the increased traffic in the public alley and additional demand for on-street parking which might be caused by additional development of the lot made possible by the proposed subdivision.

13. The grounds of opposition cited by the neighboring property owners are not relevant to the application. Approval will not cause additional traffic in the alley, as the garage already exists and may be refurbished for use as a matter-of-right. Furthermore, development of a single family dwelling on the property would be permitted as a matter-of-right.

14. Advisory Neighborhood Commission 3G made no recommendation on the subject application.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and the evidence of record, the Board concludes that the applicant is seeking area variances, the granting of which requires proof through probative evidence of an exceptional or extraordinary situation or condition of the property which causes a practical difficulty for the owner. The Board concludes that no evidence or testimony was presented which shows that such situation or condition exists in the subject property. The proposed lots have sufficient width and area to comply with the Regulations for construction of detached single family houses.

Further, the Board concludes that the applicant demonstrated no practical difficulty that he would suffer if the Zoning Regulations were strictly applied. The applicant's desire to refurbish the existing garage may be accomplished as a matter-of-right without variance relief if the lot is not sub-divided. The applicant's desire to sub-divide the existing large lot for the purposes of future development or sale may also be accomplished as a matter-of-right if the garage structure were demolished. There is thus no practical difficulty. The applicant has not met the burden of proof necessary for the granting of variance relief. For the above reasons, it is therefore ORDERED that the application is DENIED.

VOTE: 4-0 (Douglas J. Patton, William F. McIntosh, and Charles R. Norris to deny; Walter B. Lewis to deny by proxy; Carrie L. Thornhill not voting, not having heard the case).

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

ATTESTED BY:

  
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STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER: JUL 25 1983

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."

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