

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 13923, as amended, of 4434 MacArthur Boulevard Limited Partnership, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Sub-section 3301.1 authorizing the BZA to prescribe the lot area and width to permit a proposed clinic for humans in an R-5-A District at premises 4434 MacArthur Boulevard, N.W., (Square 1356, Lot 872).

HEARING DATE: February 23, 1983

DECISION DATE: March 2, 1983

FINDINGS OF FACT:

1. The application as originally filed and advertised for hearing sought a variance from the lot occupancy requirements. At the public hearing, the applicant amended the application to exclude the request for variance relief from Sub-section 3303.1 of the Zoning Regulations. According to Sub-section 3303.1, the maximum allowable lot occupancy in the R-5-A District is forty per cent, or 1,686 square feet for the subject lot. In the site plan dated October 5, 1982, the applicant proposed to occupy 1,743 square feet. Responding to concerns of the Advisory Neighborhood Commission 3B regarding additional parking spaces, the applicant submitted revised plans on February 9, 1983, which reflected four added parking spaces. The additional parking was provided by removing part of the proposed structure which had necessitated the variance relief. Consequently, no variance is required.

2. The subject site is located on the southwest side of MacArthur Boulevard, at the west corner of MacArthur Boulevard and Lingan Road, N.W. It is in an R-5-A District and is known as 4434 MacArthur Boulevard, N.W. The site is northwest of the intersection of Foxhall Road and MacArthur Boulevard.

3. The site is presently unimproved. The site is triangular in shape. It has an area of 4,215 square feet. The property slopes down approximately five feet from the MacArthur Boulevard frontage to the rear of the property.

4. Adjacent to the site and across Lingan Road to the southeast is a commercial strip zoned C-1 fronting on MacArthur Boulevard, containing a three-story building housing a wine and cheese shop, a book publisher's office

and a small appliance office/showroom. South of the subject site and across Lingan Road is a new thirteen unit three-story townhouse development. Northwest of and adjacent to the site is a twelve unit three-story townhouse development with the back yards of six units abutting the subject site. Across MacArthur Boulevard to the northeast and raised above the street are four two-story detached residences. The neighborhood along MacArthur Boulevard generally consists of two and three-story detached dwellings, townhouses and apartments. The Psychiatric Hospital is west of the twelve unit townhouse development mentioned above. With the exception of the adjacent commercial strip, the area is generally zoned R-5-A.

5. The applicant is requesting a special exception to permit a clinic for humans in an R-5-A District. The proposed two-story plus cellar clinic is designed to contain approximately 4,800 square feet of gross floor area. The clinic will accommodate up to three practitioners and two staff per practitioner.

6. The proposed clinic meets all of the specified Zoning Regulations. The clinic use is permitted as a matter-of-right in an R-5-A District. The R-5-A District does not set forth specific minimum requirements for lot area and lot width. Sub-section 3301.1 requires the Board to prescribe the lot area and the lot width on a lot by lot basis for each development in the R-5-A District. Sub-section 3301.1 was enacted as part of a text amendment in 1970 which was intended to provide for site plan review of apartment projects containing multiple dwellings in R-5-A Districts.

7. The proposed project, including the area and width of the subject lot, would meet the requirements of the Zoning Regulations if the property were located in the more restrictive R-4 District where a clinic is also permitted as of right. The minimum permitted lot area in the R-4 Zone is 1800 square feet, and the minimum permitted lot width is eighteen feet. The subject lot contains 4,215 square feet and is 47.1 feet wide. The size and width of the subject lot exceed the requirements for all residential district, except the R-1 District.

8. The proposed building materials are comparable to the building materials used in the area. Sixty percent of the site will be devoted to open space, landscaping, and parking. The structure will be one floor lower than the surrounding buildings.

9. The original landscaping plans show screening hedges and Japanese Yew trees along the walkway separating the subject property and the adjacent townhouses on the

northwest side of the site. Along the northeast frontage on MacArthur Boulevard, Dogwood and Birch trees, hedges and Azalea bushes were planned. Along the south side, the Lingan Road frontage, grass plots and Holly trees were proposed. In responding to the need to provide additional parking, the site plan was revised to reduce the size of the building, add more parking spaces, and as a result, reduce the area to be devoted to landscaping. The applicant proposed to landscape the remaining area in a similar manner to the original proposal.

10. According to the Zoning Regulations, three on-site parking spaces are required. The applicant proposes to provide seven on-site parking spaces. The access to the on-site parking at the rear of the proposed structure will be via Lingan Road. The applicant's expert traffic witness introduced a parking analysis which showed an average on twenty-three on-street parking spaces available during the day within 500 feet of the subject site along Foxhall Road and MacArthur Boulevard. The traffic consultant argued that although access to the on-street parking along Foxhall Road near the site is hampered by the condition that left turns are not permitted onto Foxhall Road from MacArthur Boulevard, on-street parking spaces are available and presently are used by the clients of nearby commercial uses. He further contended that clinics usually generate less traffic in the morning than do residential uses and that the total volume of a clinic's traffic is actually low. The evening hour patients are usually scheduled after the evening rush hour. Two hour residential permit parking is allowed in the vicinity of the site. On the south side of MacArthur Boulevard, no parking is permitted during the morning rush hour. No parking is allowed during both the morning and evening rush hours on Foxhall Road.

11. The Office of Planning, by memorandum dated February 16, 1983, recommended conditional approval of the subject application. The Office of Planning reported that absent any specific guidelines in the Zoning Regulations for development in R-5-A Districts, the special exception process gives the Board the opportunity to look at the project as a whole and to determine whether the site's area and width are adequate to minimize adverse impacts on the surrounding community. In this regard, it was the Office of Planning's view that the two aspects of the proposed project which should be addressed most carefully are parking and landscaping. The overlap of patient visits and time spent in the waiting room should be added into the applicant's parking space computations. Thus, the applicant's figure of parking spaces required for patient use becomes three to four. Adjusting the consultant's figure of two parking spaces required for the assumed five support staff persons to two to three and accepting that the three doctors will require three spaces, doctors and staff will require five to

six parking spaces. Thus, the Office of Planning estimated total peak hour demand for parking spaces to be eight to ten. The plans for the proposed clinic indicate parking spaces on-site for seven cars behind the building. However, the Office of Planning believed that only three of the spaces are standard in size and two of the smaller ones, nearest the building, appear to be almost unusable.

12. The Office of Planning further reported that the width of Lingan Road and the number of parking areas it serves is an important concern. Lingan Road is a sixteen foot wide street currently providing access for forty-seven cars that park off-street in conjunction with the adjacent townhouses. Five cars park along Lingan Road reducing its clear width to no more than twelve feet near the rear of the subject site. Three parking spaces exist partially off-street for customers of the commercial development next to Lingan Road, reducing the clear width near MacArthur Boulevard to perhaps fourteen feet. Lingan Road also provides access to a service alley behind the commercial development. Since all anticipated clinic parking cannot be accommodated behind the clinic, the Office of Planning noted that on-site parking should probably be restricted to doctors and staff, relieving Lingan Road of the estimated twenty-five patient arrivals and departures each day.

13. Regarding landscaping, the Office of Planning reported that although the adjacent three-story townhouses have a five to nine foot stockade fence separating the back yards from the clinic site, the site is not large enough to comfortably accommodate the clinic building, seven parking spaces and sufficient landscaping to help screen the parking and clinic from the adjacent townhouses and to create an appropriate surrounding that fits generally with the adjacent residential community. The OP reasoned that with fewer on-site parking spaces, there might be enough room for the necessary landscaping.

14. In reference to the concerns of the Office of Planning, the Board finds that the testimony of the expert traffic witness is more persuasive than the Planning Office report. The Board finds the number of parking spaces to be sufficient, and from review of the site plan, all spaces are accessible. There is also sufficient room for landscaping on the lot.

15. Advisory Neighborhood Commission 3B, by letter dated February 16, 1983, reported that two presentations concerning the subject application were heard by the ANC. At the first presentation, the residents mainly voiced their concern about traffic congestion and parking problems in the area of the proposed development and generally voiced opposition to the proposed development on the grounds that the three parking spaces provided in the plans were

insufficient. Additionally, the neighbors questioned whether a medical clinic was an appropriate use of the site, given the fact that it would be such a generator of traffic and parking problems. Upon hearing these concerns, ANC 3B voted unanimously to oppose the application. At the second meeting, the applicant presented modified plans which among other things, included seven parking spaces. The neighbors, continued to voice their concerns about the proposed development and a parking study performed for the applicant. Some specific concerns were:

- a. Doubts concerning the accuracy of a study of parking in the neighborhood performed for the applicant which stated that there are twenty-three available parking spaces on the average within 500 feet of the site. Specifically, it was felt that the spaces on Foxhall Road should not count because of the extreme difficulty in getting to them due to there being no left turn onto Foxhall Road near the site.
- b. Impact of this development on telephone and electric service, which had not been studied according to the applicant.
- c. Uncertainties on the part of the applicant concerning number of staff employed by the clinic, type of medical services to be offered and possible weekend use of the clinic.
- d. Lack of need for a clinic in the neighborhood.
- e. The extreme narrowness of Lingan Road, one of the streets bordering the site.
- f. Traffic and parking problems generated by a clinic, which was considered to be an extremely "busy" use of the site.

The Commission was also of the opinion that a clinic was not a good use of this subject site and questioned why the applicant had to go to the highest use in the R-5A zone. In response to the applicant's statement that a profit on any residential use is impossible, the ANC recommended that a new study of townhouses or apartments should be undertaken and that in any event, the neighbors should not be made to suffer because of the applicant's financial troubles.

16. The Board is required by statute to give "great weight" to the issues and concerns of the ANC. The Board, in addressing those concerns finds that the applicant's analyses and solutions concerning traffic and parking needs are reasonably responsive. The impact of the proposed development on utility services is not a zoning matter. The

Board further finds that the applicant has sufficiently defined the clinic staff and the clinic uses proposed as set forth in Finding No. 5. A medical clinic is a use permitted as a matter-of-right in the R-5-A District. The applicant has no burden of proof that the site cannot be used for residential purposes. The applicant seeks its relief through a special exception regarding the appropriate lot area and width, not a use variance.

17. There was no further opposition to the application at the public hearing, or of record.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and evidence of record, the Board concludes that the applicant is seeking a special exception under Sub-section 3301.1, which requires the Board to determine that the subject site's area and width are adequate for the proposed development, and that requirements of Sub-section 8207.2 would be met. The Board concludes that the applicant has met its burden of proof. The subject lot is adequate in area and width for the proposed facility. The site is wider and larger than is required for the same use in the more restrictive R-4 zone. The proposed building is under the maximum permitted lot occupancy and floor area ratio. The Board further concludes that the proposed use will not adversely effect the present character or future development of the area.

The Board concludes that the proposed improvement on the subject lot merits approval. The special exception can be granted as in harmony with the general purpose and intent of the Zoning Regulations and maps and will not tend to affect adversely the use of neighboring property in accordance with said regulations and maps. The Board also concludes that it has accorded to the ANC the "great weight" to which it is entitled by statute. It is therefore ORDERED that the application is GRANTED.

VOTE: 4-0 (William F. McIntosh, Carrie Thornhill and Charles R. Norris to grant; Walter B. Lewis to grant by proxy; Douglas J. Patton 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: JUN 28 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."

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.

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