

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 14072, of the Washington Sheraton Corp., pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the prohibition against increasing the gross floor area of a hotel (Paragraph 3105.34) to enclose an existing outdoor pool and terrace in an R-5-B and R-5-C District at premises 2660 Woodley Road, N.W., (Square 2132, Lot 32).

HEARING DATE: January 25, 1984

DECISION DATES: March 7, 1984 and April 4, 1984

FINDINGS OF FACT:

1. As a preliminary matter at the public hearing of January 25, 1984, Advisory Neighborhood Commission 3C moved for postponement of a decision on the merits of the subject application. The ANC noted that there is an appeal pending in the D.C. Court of Appeals of the Order of the BZA in Case No. 13112, which pertains to the number of off-street parking spaces for the hotel use. The ANC further cited communications received from zoning counsel for the hotel, allegedly advising the hotel not to comply with the Board's order under appeal in Case No. 13112. The ANC further cited communications to the ANC from representatives of the subject hotel that the Sheraton Corporation and its parent, ITT Corporation have not yet finally decided to undertake the proposed expansion which is the subject of this application.

2. In response to the motion of the ANC, the Board finds that no stay has been entered by either the District of Columbia Court of Appeals or the Board itself in the appeal of Case No. 13112. Therefore, the Board has authority to proceed with a hearing and decision on the merits of the subject application. Moreover, there is no evidence before the Board of non-compliance with its order entered in Case No. 13112, as the applicant herein timely filed with the Zoning Administrator its parking plan as required in Order No. 13112. Finally, there is no evidence before the Board that the applicant does not intend to proceed with the application if it is approved by the Board. However, as in every case before the Board, there is no assurance that any applicant can or will proceed with construction approved by the Board. Accordingly, the motion of ANC 3C to delay a decision on the merits of this application was denied by the Chairman.

3. The subject site is located in square 2132 which is bounded by Woodley Road, N.W. on the north, Connecticut Avenue and 24th Street, N.W. on the east, Calvert Street on the south and 29th Street, N.W. on the west. The site is known as premises 2660 Woodley Road, N.W. The site is split zoned R-5-B and R-5-C.

4. The subject site consists of 702,313 square feet of land area and is improved with driveways, a garage parking facility and a ten story hotel with a pool and deck. In April-May of 1978, the Sheraton Corporation, parent corporation of the applicant herein, commenced the demolition of substantial portions of the old Washington-Sheraton Hotel and erected the present structure in its place. Construction was completed in approximately 1980 of a facility containing a total of 1,366 rooms or suites.

5. The pool and deck area which is the subject of this application was constructed as part of the rebuilding of the hotel. The pool area is existing unenclosed space. When the pool and deck were constructed, the Zoning Regulations would have permitted them to have been covered as a matter-of-right.

6. A change in the text of the Zoning Regulations in 1980 now prohibits a hotel in a residential area from expanding its gross floor area or its area devoted to function space.

7. The applicant is now requesting a variance to increase the gross floor area of the existing hotel for the enclosure of the existing pool and terrace. Since opening the rebuilt hotel in 1980, the applicant has determined that the existing pool area and exercise room are not adequate to meet the needs of its guests on a year-round basis. The swimming pool area can be used less than fifty percent of the time because of weather and seasonal constraints.

8. There is an exercise room presently located in the basement of the Wardman Tower, substantially removed from the pool area. The exercise room is proposed to be relocated to the proposed enclosed pool area.

9. The proposed enclosure is located away from the street frontage. It abuts on three sides the existing hotel structure and on the fourth side, the north wall of the Shoreham North Apartment Building which contains no windows.

10. During the period when the pool could have been enclosed as a matter-of-right, there were budgetary restraints and restrictions which did not allow going forward with the project. The columns constructed underneath the pool area are of a design and construction

which can support the covering of the pool without modification.

11. The property shares the block in which it is located with several apartment houses and the Oyster public elementary school at the corner of 29th and Calvert Streets. North of the site, fronting on Connecticut Avenue, there are apartment houses in the R-5-C District. Northwest, west and southwest of the site there are located residentially developed properties in the R-3, R-1-A, and R-1-B Districts. Scattered within this area are the embassies of various foreign missions. The Shoreham Hotel is located to the south of the site across Calvert Street in the R-5-C District, followed by Rock Creek Park.

12. The existing gross floor area of the hotel is 1,205,312 square feet. At the time of construction of the hotel, the maximum permitted gross floor area was 1,401,917 square feet. The lot occupancy of the existing hotel is 268,973 square feet, compared with a permitted lot occupancy of 433,029 square feet. The lot occupancy would not be increased by the proposed enclosure.

13. The pool and deck contain an area of 24,160 square feet, or two percent of the gross floor area of the remainder of the hotel. Of this 24,160 square feet, approximately 5,030 square feet is the pool and adjoining fenced-in area, approximately 5,639 square feet is proposed for the exercise room and sauna on the upper deck and approximately 10,991 square feet consists of niche areas, stairs, and space taken up with planter boxes. Only 4,000 square feet of the area proposed to be enclosed will be usable floor area and this represents 0.03 percent of the gross floor area of the hotel.

14. The applicant testified that an unenclosed pool area places the Sheraton Washington Hotel at a competitive disadvantage with hotels of a similar size. A covered swimming pool with a nearby exercise area usable year round is available in other hotels which are in competition with the subject hotel. The existing exercise room is presently located in the Wardman Tower and is inadequate to meet the needs of hotel guests. Its location isolates it from the main hotel structure and it is physically removed from the pool area which it is intended to complement.

15. The applicant is not proposing to increase the function rooms, exhibit space or commercial adjuncts and hotel support space. The only change of use of space that already exists will be the relocation of the exercise and sauna room. The intended use of the space is the same as presently exists. The use of the space was proposed for hotel guests and the existing 248 members from the neighborhood.

16. Due to the 1980 amendments to the Zoning Regulations it is impossible for the applicant to enclose this existing area without the requested variance, even though the pool and deck area are existing space and their only feasible use is as part of the hotel.

17. The applicant's requested variance requires no additional parking under the Zoning Regulations. The applicant's traffic expert's evaluation of the traffic conditions and parking was that the proposal will not generate an additional need for parking.

18. In a supplemental traffic analysis prepared by the applicant's traffic expert at the request of the Board, the impact was studied of limiting membership for the exercise room, sauna and swimming pool facilities to persons residing within 3,000 feet of the hotel with the total number of members not to exceed 350. On the basis of that supplemental analysis, the expert concluded that the use of the exercise room, sauna and swimming pool by 350 members on a year-round basis, as opposed to the current six month usage, would not create adverse traffic impact.

19. The Office of Planning, by report dated January 18, 1984, recommended approval of the application. The Office of Planning was of the opinion that the applicant was faced with the practical difficulty of complying with the Zoning Regulations stemming from circumstances inherent in the size and development of the site as a hotel prior to the 1980 amendments to the Zoning Regulations. The Office of Planning was of the opinion that without the variance, the ability to operate competitively with other similarly sized hotels would be adversely affected. The Office of Planning noted that the hotel presently provides seventy-six more off-street parking spaces than required by the Board in its order entered in Case No. 13112. In its report, the Office of Planning stated that the increase in floor area is minimal as compared with the hotel's designated function space, as computed by the Zoning Administrator's office, and the hotel guests and pool membership are expected to have little impact on the immediate area. Finally, the Office of Planning was of the opinion that the variance requested can be granted without substantially impairing the intent and purpose of the Zoning Regulations and without detriment to the public good. The Board does not concur with the recommendation of the Office of Planning.

20. Advisory Neighborhood Commission 3C, by letters dated January 18, February 1 and February 8, 1984, and by testimony at the public hearing, and the Woodley Park Community Association (WPCA), in a series of letters dated September 28, 1983, October 1, 1983 and February 29, 1984, and by testimony at the public hearing, opposed the application. The opposition was on the grounds that the

applicant failed to meet its burden of proof for an area variance, that the use of the pool or health club would worsen an existing adverse parking problem in the immediate neighborhood and thus cause substantial detriment to the public good and that the relief requested would substantially impair the intent, purpose and integrity of the zone plan.

21. As to the condition of the property, the opposition argued that:

- A. The applicant claims that the property is unique because the subject lot has an unusual shape and size, four street frontages and is split-zoned. However, the physical attributes of the subject property claimed to be unique are irrelevant to the variance requested, and the applicant has failed to demonstrate any nexus between the shape, size, street frontage, and split-zoning of the lot to the present application.
- B. The applicant claimed that the subject property is unique and affected by extraordinary or exceptional situations because the requested addition in gross floor area is "existing space" which "lacks an enclosure." The existing lack of enclosure of an area cannot be considered a basis for a finding of uniqueness in the property. "Existing space" which "lacks only an enclosure" is commonly found in other areas of the hotel in question and other hotels in general in packing lots, lawns, and driveways.
- C. The applicant claimed that the subject property is unique because the location of the pool area is such that the proposed enclosure will not be visible from any street frontage. This fact does not support a finding of "uniqueness." The standard of uniqueness measures the condition of the premises prior to the granting of the variance requested.
- D. The applicant claimed that the subject property is unique because it is improved with a hotel, including a pool and deck. However, the fact that the property is currently improved with a hotel is hardly a unique or exceptional circumstance. Otherwise, any hotel similarly situated in a residential area could argue that it was entitled to a variance based solely upon its location and existence.
- E. The applicant claimed that the subject property is unique and affected by extraordinary or

exceptional situations because the 1980 amendment to the Zoning Regulations prohibits expansion of hotels in residential areas. The 1980 amendments to the Zoning Regulations, however, apply to all hotels in residential districts and not just the Sheraton. Following the Sheraton's logic, any hotel in a residential district could claim unique or exceptional circumstances because it was prohibited from expansion. That interpretation would effectively void the standards for granting a variance, and allow any hotel to add gross floor area based upon its assertion that it was prohibited under the Regulations from expansion.

- F. The applicant argued that it currently has inadequate facilities to serve its own guests. Specifically, it argued that without the requested variance it was at a competitive disadvantage with other Washington, D.C. area hotels. However, the only hotels in the D.C. area which offer covered pools are the Key Bridge Marriott and the J.W. Marriott at National Place. Neither the Washington Hilton nor the Shoreham, which both approximate the Sheraton size, offer covered pools to their guests. The applicant advocated a zoning variance to establish a competitive advantage, not merely to remedy a claimed competitive disadvantage.
- G. The applicant argued that the existence of columns surrounding the pool and terrace areas supported its argument that the roof structure had been contemplated from the initial building of the existing structure. Currently these columns hold large planters. The columns could support the proposed roof structure without alteration. However, no documentary evidence was submitted suggesting that the pool enclosure had been contemplated at the time the building was originally constructed or that the columns were intended to support a roof structure. The applicant's architect admitted that the existence of the columns and the general appearance of the area do not compel a finding that a roof was contemplated from the time of the building's construction and that the columns' ability to support the weight of a roof is not their controlling characteristic. Thus, the Board cannot find that the record supports a finding that the pool area was intended to be covered from the outset.

22. As to the issue of substantial detriment, the opposition argued that:

- A. The applicant projects that the proposed expansion would increase occupancy and pool membership by one to one and a half percent. The opposition asserted that this increase would exacerbate existing problems in the neighborhood caused by the present use of the hotel. These existing problems included shortages of on-street parking, illegal parking by hotel guests, convention buses parking and idling both on-site and nearby, loading noises from trucks attracted to the hotel by conventions, and long lines of taxicabs on Woodley Road which block traffic while they wait to enter the hotel.
- B. The applicant contended that additional traffic would not be caused by the planned increase in swimming pool memberships. However, ANC 3C's analysis of the current membership list revealed that forty-four percent of the members live outside of walking distance from the complex and would therefore be likely to drive. Traffic would undoubtedly increase if present and future members could come to the facility year-round. This is underscored by the applicant's plan to extend memberships to include inclement winter months.
- C. The applicant's traffic and parking report were inadequate. ANC 3C criticized the applicant's analysis because it was based on data collected on days for which traffic was not at its peak, during the month of January when hotel business is historically at its ebb. In addition, the applicant's traffic witness admitted that in preparing his analysis for the current application he did not consider the impact of the 5,000-7,000 additional room nights which the Sheraton anticipates if the variance is granted. The applicant's traffic witness claimed that "peak days," namely Tuesday, Thursday, Friday, and Saturday, were selected for his observations. However, the applicant considers Sunday through Wednesday to be its busiest days. Thus, only one of the observation days was a "peak day." In his report, the applicant's witness concluded that about 100 vehicles per day exit the hotel onto Woodley Road westbound toward the neighborhood. Assuming that 100 percent of this traffic exited between 10:00 A.M. and 1:00 A.M. on the days the observations were taken, the witness could only have counted about eight vehicles in each one-hour period. Thus, the traffic reports were based on a total of less than thirty-two vehicles entering the neighborhood, and are likewise based on less than

four hours of observation altogether. This is an inadequate sample size to make the projections contained in either report. The witness also acknowledged in his testimony that he had made no observations of existing pool use, or the transportation methods used to reach the existing pool.

23. On the issue of whether the proposed expansion of the hotel would substantially impair the intent, purpose and integrity of the zoning plan, the applicant argued that since the site of the proposed expansion is not visible from the surrounding residential neighborhood and since no additional land would be acquired, the expansion would not adversely affect the residential character of the surrounding neighborhood. The opposition argued that the proposed expansion of the hotel and convention complex would undermine the Zoning Commission's prohibition of further expansion of hotels in residential areas. The freeze on the existing gross floor areas of hotels in residential areas was expressly intended by the Commission to protect residential neighborhoods from the adverse effects of uses, such as convention activities, which are commercial in nature.

24. The Board is required to give great weight to the issues and concerns of the ANC that are reduced to writing in the form of a recommendation. The Board concurs with the reasoning of the ANC and the Woodley Park Community Association that the applicant has not established a practical difficulty in the site to sustain an area variance. The Board further agrees with the ANC's argument that approval of the application will result in additional traffic to and from the hotel, and that any additional traffic will exacerbate an existing problem. The Board further finds that the expansion of the hotel would impair the intent, purpose and integrity of the zone plan by allowing an increase in size of a use which the Zoning Commission specifically and particularly determined to limit.

25. At the public meeting of March 7, 1984, a motion to grant the application with conditions made by Maybelle T. Bennett, seconded by Carrie L. Thornhill, failed for a lack of a majority of the members of the Board by a vote of 2-1 (Maybelle T. Bennett and Carrie L. Thornhill to grant; Douglas J. Patton opposed to the motion; William F. McIntosh and Charles R. Norris not voting, not having heard the case). The Board requested that Board Members McIntosh and Norris read the record and be prepared to vote at the public meeting of April 4, 1984. The application was considered and disposed of by the Board on April 4, 1984, with five members present and voting.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant is seeking an area variance, the granting of which requires a showing through substantial evidence of a practical difficulty upon the owner arising out of some unique or exceptional condition of the property such as exceptional narrowness, shallowness, shape, or topographical conditions. The Board further must determine that the application will not be of substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan.

The Board concludes that the applicant has not met the burden of proof as to the threshold issue. The Board concludes that the applicant has not established that there is some exceptional or extraordinary situation or condition of the property, and that there is a practical difficulty upon the owner arising out of the property. The applicant has a large and relatively new structure built on the property. The pool area and deck were built without an enclosure at the applicant's choice. There is nothing about the shape, size, street frontages or split zoning that affects the pool area at all. The Board further concludes that, in this situation, the amendment of the Regulations and its effect on this property create no exceptional condition.

The Board further concludes that the applicant has demonstrated no practical difficulty that it would incur if the Regulations were strictly applied. The inability to use the present outdoor pool area during inclement weather or during all periods of the year is not a difficulty within the meaning of the Zoning Regulations to qualify the property for a variance.

The Board further concludes that approval of the application would be contrary to the intent and purpose of the zone plan as embodied in the Zoning Regulations. The Zoning Commission specifically prohibited the expansion of an existing hotel. While there is conflicting testimony on what impact on traffic will result from the proposed enclosure, it is clear that there will be some increase. Any increase in the intensity of this major hotel use would be undesirable, and would be detrimental to the public good.

The Board further concludes that it has accorded to the ANC the "great weight" to which it is entitled. Accordingly, it is therefore hereby ORDERED that the application is DENIED.

VOTE: 3-2 (Douglas J. Patton, William F. McIntosh and Charles R. Norris to deny; Maybelle T. Bennett and Carrie L. Thornhill opposed).

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

ATTESTED BY:



STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER:

AUG 17 1984

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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GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 14072, of the Washington Sheration Corporation pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the prohibition against increasing the gross floor area of a hotel (Paragraph 3105.34) to enclose an existing outdoor pool and terrace in an R-5-B and R-5-C District at premises 2660 Woodley Road, N.W., (Square 2132, Lot 32).

HEARING DATES: January 25, 1984

DECISION DATES: March 7 and April 4, 1984

DISPOSITION: The Board DENIED the application by a vote of 3-2 (Douglas J. Patton, William F. McIntosh and Charles R. Norris to deny; Maybelle T. Bennett and Carrie L. Thornhill opposed to the motion).

FINAL DATE OF ORDER: August 17, 1984

ORDER

On August 30, 1984, counsel for the applicant filed a Motion for Reconsideration or Rehearing of the Board's final decision in the subject application. The motion alleges in summary that the Board erred in concluding that there would be an adverse impact and that the decision to deny was contrary to the weight of the evidence presented by the applicant that the subject site was affected by extraordinary or exceptional situations or conditions. There was no opposition to the motion.

Upon consideration of the motion, the record in the subject case and its final order, the Board concludes that it has committed no error in deciding the application. The applicant has the burden of proof in presenting evidence in support of its request. The Board was not persuaded by the evidence of record that the necessary burden had been met. No materially different evidence has been submitted in support of the Motion for Reconsideration or Rehearing which could not reasonably have been presented at the time of the public hearing or which was not previously considered by the Board. The applicant is merely seeking to reargue its case.

Accordingly, it is ORDERED that the Motion for Reconsideration or Rehearing is DENIED.

VOTE: 3-2 (William F. McIntosh, Charles R. Norris and

Douglas J. Patton to deny; Maybelle T. Bennett  
and Carrie L. Thornhill opposed to the motion)

Decision Date: September 5, 1984

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: \_\_\_\_\_

5 OCT 1984

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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