

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14076, of Robert Blitz, as amended, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Paragraph 3105.42 to permit a subdivision and new residential development comprising sixty flats using theoretical lots, for a special exception under Sub-section 3307.2 to have a group of flats with common division walls considered a single building, and for a variance from the prohibition against allowing open parking spaces to be located within the front yards of flats (Sub-section 7205.1) in an R-5-A District at premises 2735-2753 Naylor Road, S.E. and 2501-2515, 2517-2531, 2533-2551, 2553-2563, 2565-2567, 2569-2583, 2585-2587, 2589-2603, 2500-2514, 2516-2530, 2532-2446, 2548-2566, 2568-2594, 2596-2610 and 2612-2622 Glen Gary Place, S.E., (Square 5730, Lots 31, 33, 35, 37, 39-70, 102-117, 202-205, 802, 822, 823, 895, 897, 899, 901, 903, 905 and 907 and alley to be closed).

HEARING DATES: December 14, 1983 and February 15 and April 25, 1984

DECISION DATES: March 7, April 4 and May 2, 1984

FINDINGS OF FACT:

1. The application appeared on the preliminary calendar of the public hearing of December 14, 1983. The evidence of record reflected that the subject property had been posted twelve days prior to the public hearing instead of the fifteen days as required under the Supplemental Rules of Practice and Procedure before the BZA. Further testimony established that the applicant had mistakenly put the wrong date on the affidavit of posting and the property had in fact been posted at least fifteen days prior to the hearing. The Board ruled that the case would go forward on its merits.

2. As originally filed and advertised for public hearing, the application requested approval for sixty-two flats. The application further sought two variances, one to allow parking in the front yard and one to allow parking within three feet of a side lot line.

3. The original site plan, marked as Exhibit No. 9 of the record, provided for 124 dwelling units, 129 full-sized parking spaces and a swimming pool with accessory building.

4. Following the filing with the BZA of report from the Office of Planning and Department of Transportation, the applicant revised the plans. These revised plans, marked as Exhibit No. 34 of the record, were submitted after the first hearing and before the second hearing. These plans reduced the number of dwelling units to 122, provided for 122 full-sized parking spaces and nine to seventeen compact car spaces and eliminated the swimming pool and accessory building in favor of a playground area. The two units eliminated were at the east end of Building No. 7 on Exhibit No. 34, to provide for more open area. In addition, the design of the parking area at the intersection of Alabama Avenue and Naylor Road was changed so as to eliminate the need for a variance from Sub-paragraph 7205.122 requiring that parking spaces be at least three feet from the property line.

5. Following the conclusion of the second hearing, the applicant submitted a third set of plans. These plans marked as Exhibit No. 50A of the record, provide for 120 dwelling units, 120 full-sized parking spaces, nine compact car spaces and also include a swimming pool with pool house and office space for the condominium association. The two additional units eliminated were at the north end of Building No. 10, on the site of the pool.

6. The case was first heard at the public hearing of December 14, 1983. During the course of the public hearing the applicant proposed to revise the site plan, as set forth above. The case was continued to the public hearing of February 15, 1984, based on revised plans. At the public meeting of March 7, 1984, the Board was unable to decide the case based on a lack of a majority vote. Board members Charles R. Norris and Carrie L. Thornhill were requested to read the entire record and be prepared to vote at the public meeting of April 4, 1984. On March 26, 1984, the applicant filed a motion to reopen the record to permit the filing of additional evidence previously requested by the Board, but not then filed by the applicant. At the public meeting of April 4, 1984, the Chairperson ruled to deny the motion to waive the Rules and reopen the record. The Board voted on the application but failed to obtain a majority vote. The Board then reopened the record and set the case for a further hearing limited to the specific issues of the impact of the proposed 120 units on the immediate neighborhood, the density of the proposed project and the rationale therefore and, if the applicant so chose, on revised plans for less than 120 units.

7. The final site plan presented to the Board, known as Exhibit No. 50A of the record, evidences that there will be 120 units. This site plan differs from the original proposed plans. There will be seven flats in Building No. 7 and six flats in Building No. 10. The curb cut closest to the intersection of Naylor Road and Alabama Avenue was

eliminated. The total number of parking spaces is 129, of which nine spaces are for compact sized cars. Two parking spaces adjacent to the pool and Building No. 10 were eliminated. The structure west of the pool will be devoted to pool facilities and the condominium management office.

8. The subject site is located in the southeast quadrant of the intersection of Alabama Avenue and Naylor Road, S.E. The subject property is positioned within a triangular street pattern, bounded on the northwest by Alabama Avenue, S.E., on the northeast by Naylor Road, S.E., on the southeast corner by 28th Street, S.E. and on the southwest corner by 25th Street, S.E. The site is known as premises 2735-2753 Naylor Road and 2501-2622 Glen Gary Place. It is in an R-5-A District.

9. The area is developed largely with garden apartments, the housing type generally built during the last two decades. In addition to residences, the area is also developed with a number of churches, Stanton Elementary School across Alabama Avenue and the Skyland shopping center just north of the site at the intersection of Alabama Avenue and Good Hope and Naylor Roads. Knox Hill, a large tract of vacant land proposed for 360 federally assisted apartment and townhouse units, 123 to start construction in 1984, is located about one block south on Alabama Avenue. There is also the Sears parking lot and store, elevated six to eight feet across Naylor Road to the northeast, the deteriorating wood porches at the rear of a row of two-story walk-up apartments across the alley to the southeast, and the large mostly vacant property to the southwest, in the same square, which could someday be developed as a continuation of the proposed development.

10. The site is irregular in shape, and consists of two separate parcels. Including a portion of an alley to be closed, the site contains approximately 161,000 square feet, or 3.7 acres. The site is vacant and covered with small trees and brush. It slopes down forty-eight feet from west to east, an eleven percent gradient. There are four two-story wood frame detached single-family houses on Alabama Avenue and a small vacant lot on Naylor Road that separates the northeastern tip from the major portion of the site. There is also a four-story apartment building on Naylor Road in the subject square which is not part of the subject site.

11. The applicant proposes to close an existing twenty foot wide public alley which runs north-south through the property and to improve an existing east-west alley which runs along the southwest boundary of the property. The latter alley will provide an emergency exit from the property onto Alabama Avenue at the southwestern corner of the property. The applicant will also provide a twenty foot

wide private street to be named Glen Gary Place, S.E. Glen Gary Place will follow a curving north-south path through the property, beginning at the main entrance to the property on Naylor Road and ending at the junction of the east-west alley.

12. The applicant proposes to provide two twenty foot wide driveway openings from Naylor Road, one leading to Glen Gary Place and the other leading to a twelve space parking area serving Building No. 5, which is separated from the remainder of the project as described in Finding No. 10.

13. The applicant plans to construct 120 brick "stacked townhouse" units. The resulting units, defined as sixty flats by the Zoning Regulations, will be grouped into eleven separate four-story structures. One-half of the units, each over 1,000 square feet of gross floor area on two floors, will contain two bedrooms and the other half will be three bedroom units. Ten of the eleven structures will be connected by the twenty foot wide private road with access from Naylor Road and the emergency only exit by alley to Alabama Avenue. Parking for 129 automobiles will be provided generally in front of each flat, minimizing the distance to the front door. The exceptions are units in the three buildings that face Alabama Avenue, where parking is in the rear.

14. The sloping site, coupled with extensive grading, permits each entry to start one-half floor up, making access to the upper unit more reasonable. Because of the savings permitted by stacking, \$15,000 to \$20,00 per unit, according to the applicant, and the additional units enabled by grading which results in one-half of each ground floor being considered non-FAR cellar space, prices can be kept in the high \$50,000's for the two bedroom units and low \$60,000's for the three bedroom units.

15. Except for Building No. 5, the entire development will be fenced and vehicular access controlled with a gatehouse to provide security and minimize the adverse impacts from outside of the development, including traffic and use of the Sears parking lot. The site and fence will be landscaped to meet Federal Housing Administration standards. The lawn, streets, pool, security guard and trash pick-up will be taken care of by a private maintenance service expected to cost each owner approximately \$100 per month.

16. The applicant is seeking a special exception under Sub-section 3307.2 to have groups of flats considered single buildings. The Board of Zoning Adjustment must also review and approve the site plan in accordance with Paragraph 3105.42. Finally, the applicant is seeking one variance for parking within the front yards of flats normally prohibited by Sub-section 7205.1.

17. No rear or service entrance abuts a street, front yard or front court unless below the main (entry) floor. In this proposal, all rear entries are on the 1st floor and the main floor is the 2nd floor.

18. No exterior stairway is built above the floor of the main (2nd) floor. In this proposal, stairs above the floor of the main floor are all interior stairs.

19. The grouping of flats should not adversely impact the character of the neighborhood. In this location, the neighborhood is made up mostly of walk-up apartments and semi-detached dwellings which are generally similar in character to the proposed grouped flats.

20. The arrangement of buildings on the site is straightforward. With the objective of minimizing roads and maximizing the number of flats, a private road is brought through from Naylor Road to the alley at the far side of the site, with cul-de-sacs branching off to the sides. The applicant is able to achieve the maximum site density with this scheme. With the natural slope of the land from west to east, the flats all have their high or entry side on or near the west, with the exception of Buildings No. 2 and 10 which require additional grading for their high side to be on the east in order to double load two of the cul-de-sacs.

21. The arrangement of parking in front, in typical townhouse fashion, provides the most efficient access to each unit and results in more landscaped open space in the rear. The exceptions, Buildings No. 3, 4 and 5, have parking in the rear in order to face Alabama Avenue with the fronts of the units rather than turn the project's back to the Avenue.

22. The buildings in the project are generally about eighty to ninety feet apart in front, separated mostly by paving. To the rear they are generally about forty to sixty feet apart, with grass and trees separating the buildings from each other or from existing buildings off the site. This amount of separation, which meets all the minimum requirements of the Regulations, is the same as or less than that provided in the three existing R-5-A developments just east of the subject site.

23. The area is adequately served with recreational facilities. There is a large paved school yard at Stanton Elementary school located directly across Alabama Avenue. The site itself provides one "L" shaped outdoor swimming pool of an approximate area of 1,130 square feet. The area of the deck for the pool is 1,953 square feet.

24. The site plan evidences a substantial amount of grading. Buildings No. 2, 3 and 4 will be from seven to

eleven feet below Alabama Avenue. This will reduce the impact of their height on the four adjacent two-story houses on Alabama Avenue.

25. The decrease in the number of units, the elimination of certain parking spaces, the elimination of the most northern curb cut on Naylor Road and the proposed landscaping will avert any adverse impact on the surrounding neighborhood.

26. The Zoning Regulations permit parking for flats in both the side and rear yards but not in the front yard. In this instance, given the size and topography of the site and limited frontage on public streets, the applicant has chosen to develop with theoretical lots and is thus required to provide front yards under Sub-section 7615.3. The lots are theoretical divisions only, necessary as limits for the application of the Regulations. Whereas the regulations apply generally on a lot by lot basis, site plan review provides the opportunity to assess the complete project. From an overall site planning perspective, granting the variance necessary to permit parking in the front yard achieves other objectives which further the worth of the project as a whole. Parking in front of the buildings provides the most efficient access.

27. The Office of Planning, in its initial memorandum dated December 7, 1983, recommended that the application be approved with conditions. It was the Office of Planning's opinion that the proposal meets the criteria for flats to be deemed a single building according to Sub-section 3307.2. The Office of Planning recommended approval of that special exception. As for the variance sought for the location of parking in the front yard, the Office of Planning was of the opinion that the plan achieves other objectives which further the worth of the project as a whole. The Office of Planning worked with the applicant on certain conditions as to the lessening of the number of units, elimination of certain parking spaces, fencing and landscaping. The revised plan presented at the public hearing of February 15, 1984, and April 25, 1984, reflected that these concerns were addressed. The Board concurs in the recommendation of the Office of Planning.

28. Alabama Avenue is a four-lane minor arterial with a forty-four foot wide pavement and an average daily volume of 17,900 vehicles. The highest peak hour traffic volume occurs between 8:00 A.M. and 9:00 A.M., when 304 northbound vehicles and 388 southbound vehicles were recorded. There are two moving lanes in each direction. Parking is restricted on the east side of the street at all times. Parking is allowed on the west side of the street except

during rush hours from 7:00 to 9:30 A.M. and from 4:00 to 6:30 P.M.

29. Naylor Road is a two-lane minor arterial with a thirty-six foot wide pavement and an average daily traffic volume of 10,100 vehicles. The highest peak hour volume occurs between 8:00 A.M. and 9:00 A.M., when 824 northbound vehicles and 231 southbound vehicles were recorded. There is one moving lane in each direction. Parking is allowed at all times on both sides of the street, except north of Denver Street, where parking is prohibited.

30. Twenty-fifth Street is a two-lane minor arterial with a thirty-six foot wide pavement and an average daily traffic volume of 8,100 vehicles. Parking is prohibited from 7:00 A.M. to 9:30 A.M. on both sides. Parking is prohibited on the west side from 7:00 A.M. to 4:00 P.M. during school days.

31. Twenty-eighth Street is a two-lane minor arterial with a thirty-four foot wide pavement. Parking is permitted at all times on both sides of the street.

32. Other streets in the vicinity include Good Hope Road, which is a minor arterial with an average daily volume of 18,600 vehicles near the site, Denver Street, which is a thirty-four foot wide local street with parking permitted at all times, Gainsville Street, which is a local street with parking allowed on both sides, and Erie Street, which is a thirty-six foot wide local street with parking restricted by the Residential Parking Permit program between 7:00 A.M. and 6:30 P.M.

33. The site is served within two blocks by eight Metrobus routes, including the B4, V1, V5, M18, 32, 34, 91 and 92 routes. The proposed Green Line Metrorail route will provide service near the area, although it is difficult at this point in the planning process to predict either the time phasing or the location of the Green Line stations.

34. The D.C. Department of Transportation, by memorandum dated December 5, 1983, reported that the proposed development would generate approximately sixty-two vehicles onto Naylor Road during the peak hour, based on an expected 0.5 vehicular trip rate per dwelling unit during the peak hour. The DOT advised that this level of additional traffic will not adversely affect the street system in the area. The DOT was of the opinion that the amount of parking that is proposed by the applicant is inadequate for the proposed number of dwelling units. Although the applicant is providing the minimum amount of parking spaces required by the Zoning Regulations, this level of parking does not take into account additional parking needs for visitors and two-car families.

If additional parking is not provided, the surrounding street system will be adversely affected due to parking spillover from the development. A minimum parking ratio of 1.25 parking spaces per dwelling unit was recommended. The DOT further recommended that the proposed driveway opening on the original plan located nearest to the intersection of Naylor Road and Alabama Avenue not be provided, since it would cause traffic conflicts at that location. The DOT, reported that the applicant has expressed a willingness to seek ways of providing an alternate access route to the units in that area. The Board concurs with the reasoning and recommendation of the DOT, except as to the minimum parking ratio of 1.25 spaces per dwelling unit. The Board notes that the revised plans submitted by the applicant eliminate the driveway opening to which the DOT objected.

35. The D.C. Public Schools, by memorandum dated October 27, 1983, reported that the proposed units are located in the administrative Region D and would be served by Stanton Elementary School, Winston Elementary School, Kramer Junior High School and Anacostia High School. This project would have no adverse effect upon the operations and facilities of D.C. Public Schools. The Board concurs.

36. The D.C. Department of Housing and Community Development, by memorandum filed November 25, 1983, reported that it had examined the proposal from the standpoint of the availability of nearby facilities and services to accommodate residents of the project as well as the relationship of the proposed project to District housing policies. The proposed development is located in a residential area made up mostly of walk-up apartments and semi-detached dwellings. The proposed construction would, therefore, be compatible in building type and scale with its surroundings. Major shopping is located a short distance away at Alabama Avenue and Good Hope Road. The Edwin Stanton Elementary School is one block from the site and the Martha Winston Elementary School is two blocks from the site. Recreation and open space available to residents of the surrounding area are met by the schools as well as by such major facilities as Fort Stanton Park to the west. The site of the proposed development is presently vacant so that the proposed construction will result in no residential displacement. The proposal would increase the supply of affordable housing which is consistent with District housing policies. The Department of Housing and Community Development had no objection to favorable action on this application by the Board of Zoning Adjustment. The Board concurs.

37. Advisory Neighborhood Commission 7B, by letter of February 24, 1984, reported that its concerns and issues were as follows:

- A. There should be 100 townhouses instead of the 120 proposed.
- B. Access is by a single lane entrance and single lane exit. This is not sufficient for the expected traffic.
- C. The ANC endorsed the concept of piggy-back housing.

The ANC stated that it "voted to accept BZA application No. 14076."

38. The Board is required by statute to give great weight to the issue and concerns of the ANC reduced to writing in the form of a recommendation. The Board does not concur with the concern of the ANC that the number of units should be reduced to 100. The amended plans meet the density requirements of the Zoning Regulations. The project is within the permitted floor area ratio and lot occupancy limitations. All of the recommendations of District agencies and Departments were favorable, indicating that the number of units was not excessive. The plans as amended have met the concerns of the Department of Transportation concerning access points.

39. Advisory Neighborhood Commission 6C made no recommendation on the application.

40. There was opposition to the application by a property owner whose property is located between the two parts of the proposed development and which fronts on Alabama Avenue. The owner objected to the density of the project, in the negative impact on traffic and the proposed closing of the alley closest to the intersection of Naylor Road and Alabama Avenue. The opposition argued that such elimination would preclude him from entering his property from the rear. The opposition admitted that such alley was the private property of the applicant and that he had been permitted to cross that land. The opposition has no legitimate basis for objection, as he has no right to access except directly from Alabama Avenue, the public street.

41. In response to the Board's request for the rationale of 120 units on the proposed site, the applicant argued that the key to the success of the project is the ability to provide affordable housing at this location. In light of the character and condition of the surrounding neighborhood, and based upon consultation with Shannon and

Luchs, realtors, and lending institutions, analyses of market data of sales in the area, and the applicant's own extensive experience with other projects in the neighborhood, the maximum purchase price for the units that the market will bear is approximately \$55,000. The requested density of 120 units as well as the piggyback design of the units, enable the applicant to provide housing within the \$55,000 maximum. Further, by keeping costs down, the applicant has retained the flexibility to reduce the purchase price as low as \$51,061 to attract buyers. Although this price yields the applicant no profit, the applicant would at least be able to break even. Any reductions below this figure would represent an out-of-pocket loss.

42. At the start of the hearing process on this application, the project had a proposed density of 124 units for a per unit cost of \$48,888. The additional costs incurred by a reduction in density to 120 units as well as modifications to the plans, have resulted in a per unit cost of \$51,061. Additionally, the applicant's profit has been reduced from \$6,112 per unit to \$3,939 per unit. The applicant has also lost the flexibility to reduce the sales price below \$51,061 without incurring an out-of-pocket loss. Any further reductions in density would have an equally significant impact on both the costs of the project and the applicant's flexibility to reduce the sales price.

43. As an alternative to traditional financing, and in order to make the housing affordable to families with incomes in the range of \$20,000 to \$30,000 per year, the applicant has discussed the project with the D.C. Housing Finance Agency (HFA). The HFA is interested in assisting the applicant with financing for the development and hopes to make available the proceeds of a \$30 million bond issue designed to provide mortgages to first time homebuyers in the District. Through the Single Family Mortgage Purchase Program, the HFA can not only provide lower interest rates for traditional thirty year mortgages, but can also provide a down payment sufficiently large enough to reduce the monthly mortgage payment to a point where it is affordable for low to moderate income groups. This money is loaned interest-free and is not required to be paid back until the family sells the house. By paying a substantial down payment, the family is able to keep the monthly mortgage payments within the budgeted range. The HFA has reviewed the project with the applicant and has indicated that the units are within the price range which would qualify the buyers for the loan assistance described above. With this assistance, the project will be able to provide home ownership opportunities for low to moderate income groups, in addition to attracting potential purchasers with incomes closer to the \$30,000 range.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant is seeking two special exceptions and a variance. The Board may grant special exceptions where the Board finds that in the subject application the applicant has met the requirements of Paragraph 3101.42 and Sub-section 3307.2. The Board concludes that the applicant has met its burden of proof. The Board further concludes that the special exceptions can be granted as in harmony with the general purpose and intent of the Zoning Regulations and will not tend to affect adversely the use of neighboring property.

As to the variance relief, the Board concludes that this is 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, typographical conditions. The Board further must find 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 met its burden of proof as to practical difficulty. The Board further concludes that based on the amended plans this relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan.

The Board is of the opinion that it has accorded the ANC the great weight to which it is entitled. Accordingly, it is ORDERED that the application, as amended, is GRANTED in its entirety SUBJECT to the CONDITION that construction shall be in accordance with the revised site plan showing 120 units marked as Exhibit No. 50A of the record.

VOTE: 3-1 (William F. McIntosh, Charles R. Norris and Carrie L. Thornhill to grant; Douglas J. Patton opposed, Walter B. Lewis abstaining).

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

ATTESTED BY:



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: _____

JUL 24 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."

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 CONSUMER AND REGULATORY AFFAIRS.

14076order/LJP8