

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 14187, of Larry D. and Linda H. Nelson, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the side yard requirements (Sub-sections 3305.1 and 7615.2), the lot occupancy requirements (Sub-sections 3303.1 and 7615.2), and the lot area requirements (Sub-sections 3301.1 and 7615.2) to permit the conversion of an accessory building into a single family dwelling using theoretical building sites in an R-4 District at premises 435 1st Street and 440 New Jersey Avenue, S.E., (Square 694, Lot 36).

HEARING DATE: October 10, 1984  
DECISION DATE: October 10, 1984 (Bench Decision)

FINDINGS OF FACT:

1. The subject site is a through lot with frontages on New Jersey Avenue to the west and 1st Street to the east. The site is bounded by D Street on the north and by North Carolina Avenue on the south. The premises is known as 440 New Jersey Avenue and 435 1st Street, S.E. The site is in an R-4 District.

2. The premises at 440 New Jersey Avenue is improved with a three story row dwelling having a rear addition. It is occupied by the applicants. The premises at 435 1st Street is improved with a two-story semi-detached garage structure which is used for storage and private parking.

3. East of the site across 1st Street is the American Trucking Association office building, a valet shop and a grocery store in the C-2-A District. The site abuts row dwellings on its north and south sides. Across New Jersey Avenue to the west there are row dwellings in the R-4 District.

4. The applicants propose to create two theoretical building sites to convert the existing accessory garage structure at 435 1st Street, S.E., into a single family dwelling. The second floor will contain a one bedroom apartment. The ground floor will be used as a garage for two automobiles. The property will be rental property.

5. Each theoretical building site must meet the requirements of the Zoning Regulations.

6. For the house at 440 New Jersey Avenue, a row dwelling, a minimum lot area of 1,800 square feet is required. The proposed theoretical building site would contain 1,767.81 square feet, and would require a variance of 32.19 square feet.

7. The garage structure at 435 1st Street would become a semi-detached dwelling, requiring a minimum lot area of 3,000 square feet. The proposed theoretical building site would contain 2,020.32 square feet, and would require a variance of 979.68 square feet. The dwelling would have a side yard on its south side of 4.92 feet, requiring a variance of 3.08 feet from the minimum requirement of eight feet.

8. As set forth in the original computations of the Chief of the Zoning Review Branch, the dwelling would occupy 1,384.20 square feet. That computation is in error. Revised computations indicate that the actual lot occupancy, including the side yard less than five feet wide, is 1,230.96 square feet. The maximum permitted lot occupancy for a semi-detached dwelling is forty percent, or 808.13 square feet for the subject site. A variance of 422.83 square feet would thus be required.

9. Neither the existing lot occupancy nor the existing side yard condition would be changed by the proposed conversion.

10. In BZA Order No. 12311, dated April 13, 1977, the Board granted the identical relief for the same premises to the former owner. The proposal was never implemented.

11. The subject lot 36 contains a total of approximately 3,788 square feet, which is more than the area required for two standard lots for row dwellings in an R-4 District.

12. Lot 36 is unique in several respects. The lot is irregularly shaped as dictated by the triangular shape of Square 694. The lot is large in comparison with the other lots in the square. As shown on the Baist Atlas, the smallest lot in Square 694 improved with one row dwelling is 730 square feet. The next largest lot to the subject lot contains 2,859 square feet. The garage building which is proposed for residential occupancy has frontage on a street as opposed to an alley.

13. The garage building is located in the contiguous row of existing structures on the west side of 1st Street. A brick driveway leads up to the building by way of a curb cut on 1st Street. The garage is large, covering 1,384.20 feet of lot area. The ground floor area is approximately 789 square feet. The upper floor projects over an unenclosed

area on the north side and contains approximately 1,096 square feet. The size of the garage and its orientation to 1st Street reflect positively on its ability to be converted into viable living quarters.

14. The Lusk Real Estate Directory lists the improvements on Lot 36 as dating to 1890. The lot is located within the Capitol Hill Historic District. Plans for the conversion have been reviewed and approved by the Federal Historic Preservation Office of the Department of Interior. The improvement will also need to be approved by the State Historic Preservation Review Board before building permits are issued.

15. The existing building foundations and walls are not proposed to be expanded. The height of the main dwelling and the proposed garage residence will not be altered. The required rear yard depth separations will provide privacy and light and air for the future residents of the garage. The plans also show the location of the required one on-site parking space to accommodate the garage dwelling.

16. The Office of Planning, by report dated October 3, 1984, recommended approval of the application. The Office of Planning was of the opinion that the applicants would be faced with a practical difficulty in complying with the aforementioned R-4 District requirements. The subject site and improvements are unique in their physical condition, age and historic status. In the Office of Planning's view, these factors support the requested variances which, if granted, will not subvert the intent of Paragraph 8207.11 which requires that the relief not cause substantial detriment to the public good. The Office of Planning noted that the living accommodations for the future residents of the converted garage building would be large, have ample rear yard space and provision for off-street parking, all factors conducive to single family family. The Board concurs with the reasoning and recommendation of the Office of Planning.

17. Advisory Neighborhood Commission 6B, by letter of October 2, 1984, recommended approval of the application subject to the continuance of an easement. The ANC reported that the subject property had been used to provide access to the rear of dwellings on the subject block for forty-two years and that there is no other public access to the rear of homes on said block. The ANC further reported that it was the overwhelming decision of the neighboring residents that the subject structure be renovated as long as the easement continued. The Board concurs with the recommendation of the ANC and will so condition the granting of this application.

18. The applicants testified that they would honor the easement.

19. There was no opposition to the application at the public hearing or of record.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicants are seeking area variances, 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 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 applicants have met their burden of proof. The practical difficulty is inherent in the land because of its physical conditions as to shape and size. The age and historic status of the structures also add to the practical difficulty. The Board notes the approval of the ANC and the lack of opposition.

The Board further concludes that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan. The Board concludes that it has accorded to the ANC the "great weight" to which it is entitled by statute.

Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the CONDITION that the existing access easement shall continue.

VOTE: 4-0 (William F. McIntosh, Charles R. Norris, Maybelle T. Bennett and Carrie L. Thornhill to grant; Douglas J. Patton not present, not voting).

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

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

FINAL DATE OF ORDER: 23 NOV 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.

14187order/LJPA