

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14229, of Janet H. Pfleger, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the lot area and width requirements (Sub-section 3303.1) and the parking requirements (Sub-section 7202.1) to construct a flat in an R-4 District at premises 122 North Carolina Avenue, S.E., (Square 734, Lot 28).

HEARING DATE: January 16, 1985
DECISION DATE: February 6, 1985

FINDINGS OF FACT:

1. The subject site is located on the north side of North Carolina Avenue between 1st and 2nd Streets and is known as premises 122 North Carolina Avenue, S.E. The site is in an R-4 District.
2. The immediate area to the north, east and south are zoned R-4. West of the site is a C-2-A District that runs along 1st Street.
3. The subject site is unimproved and has been used as a side yard patio for premises 124 North Carolina Avenue, also owned by the applicant. The outside wall of premises No. 124 is approximately eleven inches thick with brick.
4. The subject vacant lot is a lot of record and has always been such. It has no vehicle access from the rear. Immediately in front of the site is a fire hydrant.
5. The subject site is non-conforming. The Zoning Regulations prescribe that lots in the R-4 Districts contain a minimum lot area of 1,800 square feet and a minimum lot width of eighteen feet. The subject site provides a lot area of 1,023.82 square feet and a lot width of 14.42 feet.
6. The applicant proposes to construct a flat with no on-site parking. The applicant requires a variance of 776.18 square feet from the lot area requirements, a 3.58 foot variance from the lot width requirements and a 100 percent variance from the parking requirements of one on-site parking space.
7. The subject lot is the only undeveloped lot on this stretch of North Carolina Avenue.

8. The lot is larger than many of the other developed lots on the subject street.

9. For several years, the lot has had an assessed value of \$39,045.

10. The structures at 124-134 North Carolina Avenue were built in 1884. The six houses and the subject vacant lot were all originally in one ownership. The subject lot was never developed.

11. Advisory Neighborhood Commission 6B filed an untimely report. The Chair declined to waive the Rules to admit the report, to give it the "great weight" to which it would have been entitled if the report had been timely filed. The report was read into the record. The ANC opposed the application on the grounds that the variances were substantially unjustified and there was significant opposition to the application on the grounds that the lack of parking would only intensify the existing parking problems in the area.

12. There were several letters of record in opposition to the application on the basis that the existing parking problem would be exacerbated if the subject relief was granted.

13. An owner of premises 130 North Carolina Avenue testified at the public hearing in opposition. The opposition argued that this section of North Carolina Avenue was already overpopulated, overbuilt and oversaturated with automobiles. The addition of two more units to the subject street would only add to the chaos. In the opposition's opinion, the subject lot was always considered as being part of premises 124 North Carolina Avenue. The opposition suggested that the applicant should consider either a single family dwelling or joining the subject lot with premises 124. A larger dwelling could then be created and be more attractive to a prospective purchaser.

14. The applicant responded that she was aware of the parking problems in the area. Also, to build onto No. 124 would be expensive and basically unfeasible. The applicant was concerned that the lot is a lot of record, buildable, and highly assessed and that it still remains idle. The applicant had the lot on the market for three months and had no purchaser.

15. The Capitol Hill Restoration Society, by letter dated January 13, 1985, reported that the Society voted to oppose the application as advertised but to support the variance requests if the application was modified to construct a single family dwelling in lieu of a flat. The Society reported that the history of the subject property was that

it has been considered as a side yard for 124 North Carolina Avenue, S.E. for many decades if not a century. The Society further reported that several neighbors were in opposition to the construction of any structure on the lot, but the Society was of the opinion that no construction was not fair since a separate lot was in existence at the time of the enactment of the Zoning Regulations. Construction of a single family residence on the lot would lessen the density impact on the community while permitting construction on a lot that has an exceptional situation or condition that has resulted in peculiar and exceptional practical difficulties for the owner.

16. The Board concurs with the reasoning and recommendation of the CHRS. The Board also finds that it is the best solution for the existing lot. The Board like the neighborhood, is aware of the parking problem. The Board finds that the applicant is entitled to a reasonable use of the property and that a single family residence is such a reasonable use.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant is 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 applicant has met its burden of proof. The practical difficulty is inherent in the land because of its physical condition as to size. 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, if approval is limited to a single family dwelling on the property, rather than a flat. Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the CONDITION that the construction shall be limited to a single family dwelling only.

VOTE: 3-0 (William F. McIntosh, Charles R. Norris and Douglas J. Patton to grant; Maybelle T. Bennett and Carrie L. Thornhill not voting, not having heard the case).

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

ATTESTED BY:



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 23 APR 1985

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.

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