

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14267 of Adel and Darene Khalatbari, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the off-street parking requirements (Sub-section 7202.1) to use all floors of the subject premises as an apartment house, seven units in an R-5-C District at premises 1912 - 16th Street, N.W., (Square 177N, Lot 26).

HEARING DATE: March 20, 1985
DECISION DATE: May 1, 1985

FINDINGS OF FACT:

1. The subject site is located on the west side of 16th Street between T and U Streets and is known as premises 1912 16th Street, N.W. The site is located in an R-5-C District.

2. The subject site is a trapezoid in shape. The width of the site is twenty feet. The northern property line has a depth of sixty feet. The southern property line measures three feet deeper.

3. The site is improved with a four story structure with basement. The structure was constructed about 1900, a date prior to the adoption of the current Zoning Regulations. To the rear of the site is a ten foot wide public alley, less than half of which abuts the subject lot.

4. The rear yard of the subject site has less than a four foot depth.

5. The applicants propose to use all floors of the subject premises as a seven unit apartment house. The second, third and fourth floors of the premises will each contain two efficiency apartments. The first floor will contain one unit.

6. The proposed use is permitted as a matter-of-right in an R-5-C District. The applicants must provide one parking space in order to obtain a certificate of occupancy for the proposed use. The applicants cannot provide the required space and seek a variance from the parking requirements.

7. Advisory Neighborhood Commission 1C filed no recommendation on the application.

8. Six tenants of the subject premises filed a letter in the record which recited that they were long time residents of the premises. The letter stated that because of the centralized location of the site with a bus stop at the front door and the location of the site within a reasonable walking distance from the Dupont Circle Metro Station, the residents had no need to own an automobile. The letter further reported that shopping, dining and recreational facilities were all within walking distances of the site.

9. Opposition to the application was raised by the owners of the property at 1914 and 1916 16th Street, N.W., the Residential Action Coalition, the Dupont Circle Citizens Association and the Sixteenth Street Northwest Block Council. The opposition's grounds were that the configuration of the L'Enfant Plan where 16th Street and New Hampshire Avenue intersect through Square 177/177N produced building lots that were shorter than lots on any other blocks of these two major streets. The lots are so much shorter that only four out of about twenty properties in Square 177N have enough rear yard space for any parking at all. The residents of the single family dwellings and the apartment house must compete for on-street parking with each other. To permit the subject property, with the least amount of rear yard of any in the block, to impose seven or more additional cars on this tiny block would be an unjustifiable imposition on its neighbors. Further, the opposition argued that the owner of the subject property has not demonstrated that he is capable of managing a seven unit building. There have been numerous occasions of trash and refuse from this premises being deposited and abandoned in the public alley and front sidewalk by the applicant and his tenants. This record demonstrates that seven units are too many for the current owner to operate in a safe and sanitary manner. It was the opinion of the opposition that the subject building should be limited to not more than four units, as that is the maximum the neighborhood can sustain or that the current owner could manage.

10. The applicants testified that they have a private trash collector and that not all the refuse collected is from their site, but is from others who dump their refuse on the subject site.

11. In addressing the issues raised by the opposition, the Board finds that the proposed use is a permitted use in an R-5-C District, and is a use which is consistent with the general character of the neighborhood. The Board further finds that the subject property is affected by an unusual condition, as noted by the opposition. If the applicants were limited to operating a four unit apartment house, as the opposition urges, they would suffer a practical difficulty because of the limitation on the occupancy of the building. There are many residents in the immediate

neighborhood of single family and multiple family structures that have no on-site parking. The lack of parking should be shared equally. The variance for relief from one required parking space would have a minimal affect on the immediate area. The opposition argued that all of the seven residents would be using cars. There is no evidence of record to support this contention, and the experience to date proves the contrary. As to the issue of trash and refuse, the Board finds that this is not a zoning issue. The opposition has another forum in the D.C. Government in which to address this concern. The applicants' ability to manage seven units is also not a relevant issue to the disposition of this application.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicants are 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 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 of the structure also adds to the practical difficulty. It is not physically possible to provide a required parking space of the dimensions of nine feet by nineteen feet in the subject rear yard. There is also no accessibility to any space from the alley to the rear of the site.

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. ACCORDINGLY, it is ORDERED that the application is GRANTED.

VOTE: 3-1 (Charles R. Norris, William F. McIntosh and Carrie L. Thornhill to grant; Lindsley Williams opposed; Douglas J. Patton not present, not voting).

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

ATTESTED BY:



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: _____

- 6 AUG 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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GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



June 17, 1985

Willie Cooper
1008 Florida Avenue, N.E.
Washington, D.C. 20002

Re: BZA Application No. 14268

Dear Mr. Cooper:

Your written statement of June 12, 1985, in which you request that the above-numbered application be WITHDRAWN is acknowledged. You are hereby notified that pursuant to Section 301.4 of the Supplemental Rules of Practice and Procedure, Application No. 14268 is hereby WITHDRAWN. No further action will be taken on this application.

You are advised that since you have no certificate of occupancy to conduct an auto body repair business on the site, such an activity is an unlawful use of the property in accordance with Sub-section 8104.1 of the Zoning Regulations.

Very truly yours,

A handwritten signature in dark ink, appearing to read "STEVEN E. SHER".

STEVEN E. SHER
Executive Director

CC: Annie M. Campbell
James J. Fahey, Zoning Administrator

SES:ljp