

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14279 of James J. Gross, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Sub-section 3308.2 to permit a roof structure which does not meet the normal setback requirements and for a variance from the off-street parking requirements (Sub-section 7202.1) to construct a ten unit apartment building in an R-5-D District at premises 1117 New Hampshire Avenue, N.W., (Square 72, Lot 35).

HEARING DATE: April 17, 1985

DECISION DATE: April 17, 1985 (Bench Decision)

FINDINGS OF FACT:

1. The subject property is located on the east side of New Hampshire Avenue, between L and M Streets and is known as premises 1117 New Hampshire Avenue, N.W. It is zoned R-5-D.
2. The subject property has a frontage along New Hampshire Avenue of eighteen feet and an average depth of approximately 100 feet. The total lot area of the site is 1,760 square feet.
3. The subject site is currently improved with a three story residential rowhouse with basement.
4. The applicant proposes to raze the rowhouse and to construct a nine story, ten unit, residential apartment building on the subject site. The gross floor area of the proposed structure would be approximately 15,000 square feet.
5. The subject site is one block north of Washington Circle and the One Washington Circle Hotel, and one block south of the Ramada Renaissance Hotel and the Thurman Arnold office building along New Hampshire Avenue and the Marriott Hotel on 22nd Street. Immediately adjoining the property on the north is the newly renovated, but vacant, West End Medical Arts Center, formerly the Marchetta Apartment Building. Immediately to the south is a driveway and parking for the Savoy Apartment Building. All of the surrounding buildings are nine-story structures, with roof structures above that level.

6. Properties to the north and south along New Hampshire Avenue are zoned R-5-D. Behind the property to the east is C-3-C development and across New Hampshire Avenue the largely vacant triangular lot is zoned C-2-C. To the northwest is CR zoning.

7. The applicant is seeking special exception relief pursuant to Sub-section 3308.2 and a variance from Sub-section 7202.1.

8. Sub-section 3308.2 of the Zoning Regulations provides that where impracticable because of operating difficulties, size of building lot or other conditions relating to the building or surrounding area which would tend to make full compliance unduly restrictive, prohibitively costly or unreasonable, the Board is empowered to approve the location and design of any or all roof structures even if such structures do not meet the normal setback requirements of the R-5-D district (Paragraph 3201.26), provided the intent and purpose of the section is not materially impaired thereby and the light and air of adjacent buildings are not affected adversely.

9. Paragraph 3201.26 of the Zoning Regulations provides that housing for mechanical equipment, or a stairway or elevator penthouse may be erected to a height in excess of that authorized in the district in which located, provided such housing or penthouse is set back from all lot lines a distance equal to its height above the roof of the top story. Such roof structures shall not exceed 18.6 feet in height above the roof upon which they are located.

10. The applicant proposes to construct a nine-story building, ninety feet in height, with a penthouse structure measuring sixteen feet in height. The roof structure will contain elevator machinery, exit stair, emergency generator, and air conditioning fans, pumps and related equipment required to meet building, elevator and other code requirements.

11. The proposed roof structure will conform to the sixteen foot setback requirement on the west and east sides of the building facing New Hampshire Avenue and the Savoy Apartments parking lot, respectively. However, no setback is proposed for the north side of the building which will abut the Savoy Apartments driveway and parking lot.

12. The proposed roof structure requires a width of eighteen feet. A sixteen foot setback on one side of the building is not feasible.

13. Due to the narrow width of the lot, compliance with the sixteen foot setback requirements on the north and south sides would exceed the width of the lot. If the

specified sixteen foot setback were provided on one side, the roof structure would be limited to a width of two feet.

14. The subject lot is abutted on the north side by existing large buildings, on the east and south sides by the driveway and parking lot for the adjacent Savoy Apartments, and on the west by New Hampshire Avenue. The applicant is, therefore, unable to increase the size or width of the subject lot to eliminate the need for the requested special exception.

15. There will be little or no impact on surrounding uses because the adjacent buildings to the north, south, and east are of similar height as the proposed structure.

16. The north and south sides do not abut a street or public alley, and therefore the noncomplying sides of the roof structure will be barely visible from the street.

17. The proposed roof structure will not impair the light and air of any adjacent uses. The subject site is surrounded by high rise buildings.

18. The narrowness of the subject site in conjunction with the inability to increase the lot size due to existing adjacent structures creates an exceptional situation for the applicant, which is inherent in the land, and causes practical difficulties for the applicant since the building could not be redesigned to take advantage of the permitted floor area ratio while still complying with all other aspects of the Zoning Regulations.

19. The proposed roof structure will be compatible in terms of materials and design with the facade of the proposed structure and adjacent roof structures.

20. Sub-section 7202.1 of the Zoning Regulations requires one parking space for every four dwelling units in an apartment house in the R-5-D District. The net requirement for this project is three spaces. Since, the applicant proposes to provide no parking, a variance is required.

21. Because of the size and shape of the lot, the applicant is not able to provide the on-site parking spaces that are required by the Zoning Regulations. Furthermore, since the project is an infill development, the applicant is unable to add to the width of the lot. The back of the lot is presently one story below street level with walls on all sides, and is landlocked with no adequate access to the rear yard from the street for parking purposes.

22. The lot is not large enough to accommodate both the building elevator core, stairways and the necessary ramp and parking spaces. The lot is further encumbered by thirty

feet of fill and nonbearable soil, and a major subterranean sewer serving the surrounding apartment buildings. Excavation beneath the entire structure to provide three regulation parking spaces would not be practical and would also require a curb cut which would reduce by one space the amount of available on-street parking and would require numerous structural and other changes to the building.

23. The applicant's parking consultant testified that there is adequate on-street parking available within the immediate area and over 1,600 commercial parking spaces available. The area is well served by public transportation. There are fourteen Metrobus routes on New Hampshire Avenue near the property. The Foggy Bottom and Dupont Circle Metro Stations are within a five-minute walking distance of the subject premises. The Board so finds.

24. Advisory Neighborhood Commission 2A, in a report dated March 15, 1985, recommended conditional approval of the application. The ANC reported as follows:

- A. The project will provide additional long-term housing in the West End;
- B. The lot is too small to allow parking on site, but the applicant has undertaken to assure the availability of parking on Block 72 or an adjacent block for those residents of the proposed building who need such parking; and
- C. The building and lot are too narrow to provide the necessary side side setbacks for a mechanical penthouse.

The ANC further reported that its support was subject to a binding agreement to enter into a recorded covenant between ANC 2A or other community organization and the applicant that the proposed building will only be used for long-term residential use.

25. The Board is required by statute to give "great weight" to the issues and concerns of the ANC reduced to writing in the form of a recommendation. The Board concurs with the ANC recommendation and the grounds recited in support of the relief requested. The Board notes however that it has no authority to require such a covenant as suggested. The Board further notes that there are other permitted uses for the R-5-D District.

26. The Dupont Circle Citizens Association, by letter of April 15, 1985 and in testimony at the public hearing, reported that the Association supported this application on the grounds that the physical limitations of the lot make conformance with the Zoning Regulations impossible. The

project will provide much needed housing in the West End and that the owner has agreed to provide off-site parking and enter into a recorded covenant that the proposed building will be used for long-term residential use only.

27. The Residential Action Coalition testified in support of the application on the same grounds reported in the ANC recommendation.

28. The Single Member District Commissioner in whose district the subject site is located testified in support of the application, affirming the reasons recited in the ANC recommendation.

29. An owner of improved property in the immediate area of the site filed a letter in support of the application. No grounds were stated.

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

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and the evidence of record, the Board concludes that the applicant is seeking a special exception and a variance. In order to be granted the requested special exception relief, the applicant must demonstrate, through substantial evidence, compliance with the requirements of Sub-sections 3308.2 and 8207.2. The Board concludes that the applicant has met his burden of proof.

The Board concludes that because of operating difficulties and narrowness of the building lot, full compliance with the strict requirement of the Zoning Regulations would be unduly restrictive and unreasonable. The location of the proposed roof structure abuts structures of similar height and with similar roof structures. Because of its height and bulk, the proposed roof structure will not affect adversely nor will it impair the light and air of adjacent buildings. The structure will contain essential mechanical equipment and it will be barely visible from the street. The Board concludes that the narrowness of the site coupled with the inability to increase the lot size due to existing adjacent structures creates operating difficulties which are inherent in the property itself. The proposed roof structure is in harmony with the adjacent roof structures and the facade of the proposed building. The Board further concludes that the special exception relief 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.

With respect to the requested parking variance, the Board concludes that this is an area variance the granting of which requires a showing of a practical difficulty inherent in the property. The Board concludes that the nature of the existing property on a narrow lot without side yards and without access for a car to the rear yard from a street or alley, and the existence of other conditions creates an exceptional or extraordinary condition which creates a practical difficulty for the owner. The Board notes that the use proposed is permitted as a matter of right, and concludes that denial of the application would constitute a practical difficulty for the owner. The Board notes that off-street parking is available in the area and the site is well-served by public transportation.

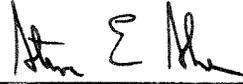
Based on the foregoing, the Board concludes that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose or integrity of the zone plan as embodied in the Zoning Regulations and Map.

The Board further concludes that it has accorded to the ANC the great weight to which it is entitled. Accordingly, it is ORDERED that the application is GRANTED subject to the CONDITION that the use of the structure shall be limited to long term residential use.

VOTE: 4-0 (Charles R. Norris, Patricia L. Mathews, William F. McIntosh 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
Executive Director

FINAL DATE OF ORDER: 26 JUL 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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