

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 14301, of Theodore F. and V.B. Mariani, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the size of required parking spaces (Sub-section 7204.1), the accessibility requirements to allow stacked parking (Sub-section 7206.5) and the closed court width and area requirements (Sub-section 5305.1) to construct an addition to an existing office building in a C-3-B District at premises 1600 - 20th Street, N.W., (Square 93, Lot 800).

HEARING DATE: June 19, 1985  
DECISION DATE: July 3, 1985  
DISPOSITION: The Board GRANTED the application by a vote of 4-0 (Maybelle T. Bennett, Carrie L. Thornhill, Charles R. Norris and William F. McIntosh to grant; Douglas J. Patton not present, not voting).  
FINAL DATE OF ORDER: September 4, 1985

ORDER

On September 13, 1985, counsel for Paul and Susan Allen, parties in opposition to the subject application, filed a timely motion for reconsideration of the Board's decision in the subject case. In support of the motion for reconsideration, counsel argued that:

- a. The property is not unique because of size, shape, topography, or other extraordinary or exceptional condition.
- b. The owner is not encountering exceptional practical difficulties as a result of the strict application of the Zoning Regulations.
- c. The variances will cause substantial detriment to the public good and will substantially impair the intent, purpose and integrity of the zone plan.

On September 20, 1985, counsel for the applicant filed a response in opposition to the motion for reconsideration. Counsel argued that the motion should be denied for the following reasons:

- a. The opposition's motion merely repeats the concerns expressed at the public hearing.

- b. The final order sets forth ample Findings of Fact and Conclusions of Law in support of the Board's decision.
- c. The final Order specifically addresses each issue raised by the opposition in their motion;
  - 1. Finding of Fact Nos. 5, 7, 8, 9, 11, 15 and 40 of the final order pertain to the uniqueness and exceptional conditions applicable to the subject property.
  - 2. Finding of Fact Nos. 4, 5, 7, 14, 15, 20, 25 and 40 apply to the practical difficulty to the owner of the subject site which would result from the strict application of the Zoning Regulations.
  - 3. Findings of Fact Nos. 5, 6, 15, 20, 21, 23 and 40 address whether the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan.

Upon consideration of the motion for reconsideration, applicant's response thereto, and its final order, the Board concludes that it has made no error in deciding the application. The motion does not raise any issues that were not previously considered by the Board and addressed in its final order dated September 4, 1985.

Accordingly, it is hereby ORDERED that the motion for reconsideration is hereby DENIED.

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

DECISION DATE: October 2, 1985

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

ATTESTED BY:



CECIL B. TUCKER  
Acting Executive Director

FINAL DATE OF ORDER:

07 NOV 1985

BZA APPLICATION NO. 14301

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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."

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HEARING DATE: June 19, 1985

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FINDINGS OF FACT:

1. The subject site is located on the northwest intersection of 20th and Q Streets and is known as premises 1600 20th Street N.W. It is in a C-3-B District.

2. The subject site is rectangular in shape and contains 5000 square feet. It has a frontage of fifty feet on 20th Street and 100 feet on Q Street.

3. The site is improved with a three story and basement office building. The building is a late 19th century mansion known as Villa Pax. The structure has been occupied by the applicants as offices of an architectural firm for the last twenty years.

4. A three story addition is proposed, to be placed to the west of the building in the open area of the site that fronts on Q Street. This area is presently utilized as an open, uncovered parking area. The new addition will be built on a series of piers which allow the existing parking area to remain intact at street level, but above this parking will be three floors of new office space.

5. The new addition has been designed to fit in and respond favorably to the historic forms of the neighboring buildings. The overall dimensions and massings are those consistent with the existing streetscape. The new addition will directly resemble the row houses which are to the west of the site, but be compatible with the corner structure of the existing building. The roof of the new addition will be composed of gables and dormers which will tie into the main building's roof structure. The unique and historic

gutters, eaves and terra cotta pieces of the existing building will be reused in the addition.

6. To the rear of the new addition, a new courtyard is to be located to allow for the continued access of natural light and ventilation to the neighboring buildings, as well as to the new office spaces created in the addition.

7. The structure is a unique and historic structure which cannot be substantially altered in any manner not harmonious with the historic character of the building and the Dupont Circle Historic District.

8. The proposed addition will accommodate a modest increase in staff but primarily will allow computerization of the technical facilities of the building including CAD workstations, word processors and other office equipment. With this expanded office space for studio use, the firm will be able to restore and return the main rooms of the mansion to their original historic appearance. These larger rooms will be the major public spaces, to be used for conferences, meetings and presentations.

9. The subject Square 93 is a split-zoned square, extending from Q Street on the south to R Street on the north and from 21st Street on the west to 20th Street on the east, with Hillyer Place cutting the square from east to west approximately in half. In that part of Square 93 which is between Hillyer Place and Q Street, there are two alleys. One is an east-west 12 foot wide alley, extending from 21st Street to the western edge of the lot just to the north of applicant's property. The second alley is 15 feet wide and extends south from Hillyer Place to a junction with the east-west alley. The property to the east of the north-south alley, and which fronts on 20th Street is zoned commercial, C-3-B. The R-5-B zoning to the west of the alley is separated by the 15 foot alley. Applicant's property is the only commercial property in this part of the square which is not separated from R-5-B zoning by the 15 foot alley.

10. Q Street between 21st and 20th Street is a one-way street with a roadway 31.5 feet wide, with two lanes of traffic, and one lane of parking on the north side of the street controlled by the residential parking permit plan, and diplomatic parking on the south side of the street in connection with the Colombian Chancery.

11. 20th Street is a narrow street with no street parking, one-way south to the intersection with Q. Further south it is one way north so that cars at the intersection of Q and 20th Street must turn east into Q Street. There is a traffic light at the intersection of Q and 20th Street.

12. Q and 20th Street is also the site of the entrance to the Dupont Circle Metro Station.

13. Under the Zoning Regulations, the applicant is required to provide four parking spaces measuring nine feet by nineteen feet. The applicant proposes to provide eight parking spaces, two of which will be regulation size, and six compact size spaces measuring nine feet by sixteen feet. The applicant seeks a variance of three feet on the size of the two required parking spaces.

14. The applicant also seeks variance relief to permit one required space to be stacked behind another vehicle. The said space is not directly accessible to a street or alley. Without the stack parking relief, only three required spaces can be provided.

15. The applicant also seeks variance relief from the closed court width and area requirements of the Zoning Regulations. The variance is required to provide a required fire egress stair tower and lavatory facilities in a structure located within the existing side yard. By closing off a portion of the side yard, a nonconforming court is created. The said court is located on the north side of the property. By holding the court where it is, the applicant is also able to retain the court as a dining facility for the adjacent restaurant. The Zoning Regulations require a closed court area of 250 square feet and a closed court width of twelve feet. The applicant is providing 234 square feet and 7.5 feet respectively. The variance sought is sixteen square feet and 4.5 feet respectively.

16. The proposal requires no variances from the lot occupancy, floor area ratio or height requirements of the subject C-3-B District.

17. The applicant proposes three garage doors. The garage door closest to the existing structure will be recessed from the other two garage doors to the left. It will be so designed that it will not appear as a garage door but as an ironwork articulated grill. This door will swing to the side. Two garage doors will be to the front of the structure. They will have overhead doors. The doors will measure nine feet wide.

18. The firm has thirty-nine employees, five of whom drive to work. The remaining employees walk or use public transportation. The five employees who drive will not be using their cars during the work day and will be permanently parked during the day. Their parking spaces will be located to the extreme west of the site. The firm has two vans which, with the visitor space, will be parked in the spaces closest to the existing structure. The firm's business averages one to two clients/visitors per day.

19. If a similar office structure were to built on the site, the Zoning Regulations would require eight parking spaces. The current open parking lot can accommodate eight cars. The applicant is of the opinion that eight spaces will accommodate the needs of the firm.

20. At present, the drivers pull in head first from Q Street at night back out into the traffic on Q Street. The applicant will now extend the paving over to line up with the doorway entrance to the structure and create some maneuvering room on site. Cars can then be pulled in, maneuvered and backed into the garage. At night the cars can come out directly into Q Street.

21. A planting strip, hedges and other landscaping will be provided to screen the area of the garage doors.

22. The subject structure will be occupied by one firm. Keys to the parked cars will be held at the reception desk to handle any problem arising from stacked parking.

23. The applicant has also created a court in the west rear of the subject site. This court complies with the Zoning Regulations. The court was created to provide some light and air to the rear extension of the residential building on Q Street directly west of the subject site.

24. The proposed addition on its west side will be up against the party wall of the residence to the west. The wall will be a free standing wall having its own supports.

25. The Historic Preservation Review Board Staff Report, dated May 15, 1985, reported that the subject application calls for conceptual design review of a project at 1600 20th Street, N.W. in the Dupont Circle Historic District. The plans call for an addition to an existing building consisting of a garage on grade level plus three stories for office use. There will also be an installation of a new elevator in an existing elevator well inside the existing building. The plans for the new construction include raising the roofline of the existing house and designing a connecting unit, which is mostly glazed and stepped back between the existing house and the new construction. The new construction which is brick is well articulated and relates very sympathetically to the existing streetscape on Q Street. Although only a concept, the design elements mirror and complement the existing row. The major discordant element in this design is the large garage door openings and curb cut which tend to divide the new construction into two separate designs. The staff recommends that the Board approve the concept in general, but recommends that the architects investigate alternatives for the garage entry and curb-cuts and keep as much as possible of the landscaped berms. The Board notes that the recommendation has been addressed by the applicant.

26. The owner of two properties directly to the north of the site appeared at the public hearing in favor of the application. It was his opinion that the proposal would have no adverse effect in the neighborhood. He noted the architectural sensitivity of the proposal and the retention

of the present parking spaces that would not cause a further aggravation of the serious parking problem of the residents of the 2000 block of Q Street.

27. There were letters of record in favor of the application on the grounds aforementioned.

28. Advisory Neighborhood Commission 2-B, by letter dated June 11, 1985, reported that at a duly called meeting of Advisory Neighborhood Commission 2B on May 22, 1985, a quorum of six of seven elected Commissioners were present and voting when the above referenced matter was considered. Mr. Gustavo Araoz and Mr. Craig Morgan represented the applicant and displayed drawings and showed slides to demonstrate existing conditions and proposed changes if the application is granted. Mr. and Mrs. Paul S. Allen, 2009 Q Street, N.W., who are neighbors immediately to the west of the project, objected strongly to the Application and said the proposed addition would infringe on their air and light. They also objected to the wide curb cut and stacked parking as they felt this arrangement would create additional in and out traffic and parking in the driveway itself.

Commissioner Ralph Bristol made a motion that ANC 2B recommend to the BZA to approve the application contingent on eliminating the third garage door and shrinking the curb cut. Commissioner David Maxwell seconded the motion. The motion failed on a tie vote: three yeas and three nays. Commissioner Susan Meehan made a motion that ANC 2B recommend to the BZA to not approve the application because the project is another commercial encroachment in an otherwise residential neighborhood, creating additional traffic and parking problems and infringing on the air and light currently enjoyed by the neighbors. Commissioner Renee Schwager seconded the motion. The motion failed on a tie vote: three yeas and three nays. No additional votes were taken.

29. The Board is required by statute to give "great weight" to the issues and concerns of the ANC when such are reduced in writing in the form of a recommendation. In the instant case, there was no recommendation.

30. The Dupont Circle Citizens Association, by letter dated June 18, 1985, reported that the Dupont Circle Citizens Association, at its general membership meeting on June 3, 1985, voted to oppose the application by Theodore R. and V.B. Mariani for variances from the size and accessibility of parking spaces and to take no position on the application for variance from the width and area of the closed court.

The Association believed that stacked parking, with up to three cars backing out from any of three garage doors would be an unacceptable hazard to pedestrians walking and vehicles driving on busy, one-way Q Street. The four

parking spaces allowed under the Zoning Regulations would appear to be adequate for a building that is across the street from a Metro entrance and is served so well by Metro buses. For this reason, the Association asks that the Board deny the variances from the size and accessibility of parking spaces.

31. The Residential Action Coalition, by letter dated June 25, 1985, reported that the Coalition did vote at its regular meeting on June 4, 1985 to oppose the application. It was their position that none of the variances requested were justified, that the intense use of the parking lot and the increased size of the building, and the increased parking lot traffic would adversely affect the residential property to the west of the site of the proposed application. Granting the variances as to parking would adversely affect, by increasing, the already great congestion of the Q Street traffic.

32. The Allens, who reside at 2009 Q Street, the site immediately to the west of the subject structure, opposed the application. The Allens testified that they purchased their home in 1976 and spent substantial time, energy, and money renovating the house. In the period 1976-1979, they spent in excess of \$100,000 on the renovation, over and above the purchase price of the house. The Allens have two sons, one is six years old and the other is four. The children have grown up in this house which does not have a yard in which to play, but they play on a deck which was built for them on the first floor toward the side and the rear of the building. This deck is their only safe outdoor playground.

33. In the past nine years the Allens, personally observed the pattern with which Mr. Mariani's associates, employees and clients used the existing parking area or rear yard, the land on which Mr. Mariani proposes to build the garage and office building. Mr. Mariani's office van parks on the sloped driveway, which is public space, on a daily basis. Such habitual parking violations are evident in the oil and grease marks left on the driveway. Mr. Mariani has persistently and openly disregarded zoning and traffic regulations. More importantly, he has demonstrated total disregard for the safety of small children living next to his illegally parked van.

The existing parking area is permitted to accommodate four cars. The area is often filled with seven or more cars and vans, nearby double its legal occupancy. At the present time, Mr. Mariani has three vans (Grey, Brown, Black) which use the existing parking area. This is in addition to cars operated by Mr. Mariani, his secretary, his associates/employees and clients. It is not unusual to see seven or more cars/vans parked in the parking area and on the driveway during the weekdays.

34. The 2000 block of Q Street has residential reserved parking. Mr. Mariani proposed to eliminate one residential reserved space and convert that space into his driveway. This means a public parking space will become his private driveway to a three door 27-foot wide garage. In doing so, Mr. Mariani proposes to take public property for his private use. It was the opinion of the Allens that even if the applicant is permitted to stack park eight cars in his proposed garage, he will park more than eight cars in the proposed garage and on public property, i.e. the 27-foot wide driveway he proposes to construct in front of his proposed garage. At the present, he has three vans but his design only provides space for two. Thus, even the plan as proposed will not provide enough parking space for his present use.

If Mr. Mariani is permitted to construct his building as he has proposed, he will defeat the purposes of the Zoning Regulations and the D.C. Comprehensive Plan Act of 1984 (DC Law 5-76) which strive to stabilize neighborhoods, preserve and promote cultural and natural amenities, respect the physical character of the city, preserve and ensure community input, and preserve the historic character of the city.

35. The Allens further testified that to preserve the integrity of the Zoning Regulations, commercial buildings must be distinctly separate from residential buildings. Residential buildings must be protected from the intrusions of noise and traffic from commercial operations. Their house sits at the edge of the commercial district and is presently insulated from unreasonable commercial intrusions by the existing parking area. The parking area has effectively served as a buffer zone between the commercial district and opposition's residence in the residential district. For the past nine years, the residence has enjoyed substantial privacy and adequate supply of light and air from the east side of the building. However, the residence will no longer enjoy such privacy if the three door garage is to be constructed next to the Allen's living room on Q Street. The garage doors will create offensive noise resulting from their closing and opening during the days and in evenings when Mr. Mariani, his associates/employees and clients drive their cars and vans in and out of that garage. If the garage doors are not closed to allow easy access and egress of cars and vans, the proposed garage will convert a beautiful Q Street streetscape into a street which begins with a big hole (garage) packed with cars inside and on the 27-wide driveway.

36. The proposed construction will also deprive the residence of the enjoyment of light and air because the construction will brick up the dining room window, and block off the supply and flow of light and air from the east to the Allen's deck, the bedrooms, bathrooms and kitchen. At

the present, these living areas enjoy full and complete supply of sun, light and air. Mr. Mariani's plan proposes to demolish a historic wall, which was built with ornate brick work, in order to make a 27-wide opening for his garage. Mr. Mariani's design also proposes to demolish another historic wall which stands on the north border of his lot. This wall was also built with ornate unique brick work. Although a small part of this wall was removed and demolished about a year ago by Mr. Mariani, a substantial portion of this historic wall is still in good condition and should not be demolished.

37. The Allens do not want to lose the privilege of parking their car in the public parking space which Mr. Mariani proposes to convert into a drive-way for his private commercial use. The proposed stacked parking will create additional traffic congestion in the already congested Q Street which is flanked on both sides by cars from the Colombian Embassy, Embassy Row Hotel, and which is frequently jammed with traffic converging at the intersections at 20th Street, Q Street and Connecticut Avenue at the Q Street Metro exit, above the Dupont Circle overpass.

38. Persons testified at the public hearing in opposition to the application. Petitions and letters were of record in opposition. The grounds were as recited above.

39. The Board finds that the subject trees, maneuvering space and landscaping space is public space and belongs to the Government of the District of Columbia. The properties of the applicant and the Allens end at the front of the buildings, and the rest of it, even though not devoted to sidewalk or curb or travelway, is public space. The applicant is instructed to work with the Department of Public Works as to these issues.

40. The Board, in addressing the concerns of the opposition, finds that if the applicant had been illegally parking then such concern should have been addressed to the proper forum for redress. The BZA has no jurisdiction over such matters. They are not zoning issues. The BZA has no power of enforcement. The Board also finds, as stated in Finding No. 35, that it has no jurisdiction over the use of public space. Accordingly the issues of the loss of trees, landscaping and maneuvering space must be addressed to another forum. The Board further finds that much has been said about the proposed parking plan aggravating an existing traffic and parking situation in the immediate area. It is difficult for the Board to accept this. The proposed eight parking spaces should alleviate the on-street parking concern. Also, the proposed parking plan permits the applicant to exit on Q Street head-on and not back into the traffic. Surely this is a safer procedure. The Board finds that the opposition provided no probative evidence to the contrary. No traffic surveys were done by the opposition.

Finally as to the issue of light and air, the Board finds that the applicant's site is not obliged to provide light and air to an adjacent structure. Each single site must provide the light and air to its own structure. The Allens knew, or should have known, when they purchased their site that immediately adjacent to it was a commercial strip. They should also have considered the possibility of the open space being built upon. In selecting their property, the Allens should have anticipated noise and traffic from a commercial district.

CONCLUSIONS OF LAW AND OPINION:

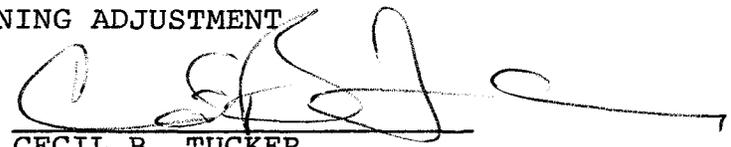
Based on the record, the Board concludes that the applicant is seeking area variances, the granting of which requires a showing through substantial evidence of a practical difficulty upon the owner arising out of some unique or exceptional condition of the property such as exceptional narrowness, shallowness, 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 conditions as to smallness, the size of the rear yard. The age and historic status of the structure also add to the practical difficulty. 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 SUBJECT to the CONDITION that construction shall be in compliance with the plans marked as Exhibit No. 10 and 28 of the record subject to review and approval by the Historic Preservation Review Board.

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

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

ATTESTED BY:

  
CECIL B. TUCKER  
Acting Executive Director

FINAL DATE OF ORDER: 04 SEP 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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