

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14322 of New Bethel Church of God in Christ, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the lot area requirement Sub-section 3301.1, for a proposed subdivision of a lot and the construction of two semi-detached single family dwellings in an R-2 District at premises 6411 through 6413 Piney Branch Road, N.W., (Square 2975, Lot 11).

HEARING DATE: September 11, 1985
DECISION DATE: October 2, 1985

FINDINGS OF FACT:

1. The site has a frontage of 90.47 feet on Piney Branch Road on its north side and is bounded by lots 9 and 10 on its south side. It is known as premises 6411 Piney Branch Road, N.W. The northern lot line runs parallel to Piney Branch Road and takes on the curved shape of the road boundary. The site is level and presently vacant. The site has a total area of approximately 5970 square feet.

2. Pursuant to Paragraph 8207.11 of the Zoning Regulations, the applicant is seeking a variance from the lot area requirements of Sub-section 3301.1 for a proposed sub-division of the lot and the construction of two semi-detached single family dwellings.

3. The proposed construction is part of a plan to provide four single family dwellings in two semi-detached units, one built on lots 9 and 10 and the other built on the divided lot 11. The applicant may as a matter-of-right construct the two-unit semi-detached building on lots 9 and 10 and one single unit completely detached building on lot 11.

4. The applicant plans to use one of the dwellings for the permanent residence of the sexton of the Church. The other three units would be sold to other members of the church. Each of the pair units would have a parking space. The plans meet all other Zoning Regulation requirements.

5. The Advisory Neighborhood Commission (ANC) 4B failed to submit a timely recommendation concerning the application. The Board waived its rules to allow an appointed representative of the ANC appeared at the hearing and read a report into the record stating the ANC's opposition to the application. The ANC reported that no

representative of the applicant appeared at their meeting to offer evidence in support of the area variance. The ANC expressed concern over drainage problems during excavation that might cause water to runoff into the basements of the five detached homes to the east of the applicant's lots. A situation that the opposition had witnessed before. Furthermore, the ANC expressed concern about potential environmental hazards created by the nearness of the construction to a gas station on the west side of the lot. The western boundary of the lot is within twenty-five feet of exposed pipes from underground storage tanks which emit noxious fumes. Residents occupying the proposed dwellings could be in potential danger because of the hazard from the fumes. Lastly, the ANC stated a concern that the three fire hydrants in the area could not support the additional construction should the water system be necessary.

6. There were a number of letters in the record and testimony at the public hearing in opposition to the application from residents in the surrounding area. The chief concerns focused on those raised by the ANC.

7. The Board, in response to the concerns of the ANC and the neighboring property owners, requested the applicant to submit a report from Environmental Services as to the adequacy of water drainage system. The report submitted stated that the lot was not within the flood plain area and that its soil was characterized as urban land and deep, nearly level to steep, well drained soils that are underlain by sandy and gravelly sediment on upland.

8. The ANC responded to the findings of the Environmental Services arguing that the report was inadequate, for it did not address the effects of the removal of large trees by the applicant nor the effects of a deep well located in the center of the property to which the opposition had testified.

CONCLUSIONS OF LAW AND OPINION:

Based on the evidence in the record, the Board concludes that the applicant is seeking an area variance in order to construct a single family semi-detached dwelling on property with an area of less than 3000 square feet. Sub-section 3301.1 of the Zoning Regulations requires a minimum lot dimension of 3000 square feet for a single family semi-detached dwelling in an R-2 District. In order to be granted area variance relief, the applicant must demonstrate that the property is affected by an exceptional situation or condition inherent in the property, that the strict application of the Zoning Regulations would result in practical difficulty on the owner, and that such relief can be granted without substantial detriment to the public good and

without substantially impairing the intent, purpose, or integrity of the Zoning Regulations and map.

The Board concludes that the applicant has failed to meet the burden of proof for an area variance relief. Specifically, the applicant has not shown that an exceptional situation or condition inherent in the property exists so that the strict application of the Zoning Regulations would result in a practical difficulties on the owner. The applicant is able to construct a large, detached single family residence on the whole of lot 11 as a matter-of-right. The nature of the property does not make it practically impossible to construct anything else but single family semi-detached dwellings. Whereas strict application of the Zoning Regulations might result in economic difficulty on the owner, such rationale alone is not sufficient for a grant of area variance relief. The lot now proposed to be subdivided is a conforming lot, and it is unimproved. If the relief were granted, it would result in a non-conforming lot. Furthermore, the applicant has not demonstrated that the grant will not adversely affect the public good and will not compromise the integrity of the Zoning plan. The applicant has not sufficiently addressed the basic concerns of the surrounding residents. The Board further concludes that it has granted to the ANC the "great weight" to which it is entitled by law. Accordingly, it is ORDERED that this application is DENIED.

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

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

ATTESTED BY:



EDWARD L. CURRY
Acting Executive Director

FINAL DATE OF ORDER: AUG 29 1986

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."

14322order/LJPV