

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14391 of Horning Brothers, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the use provisions (Sub-section 3101.3) for the J. Finley Wilson Memorial Lodge #1371 to construct an Elk's club house on the subject site in an R-3 District at premises 1600 block of Gainesville Street, S.E., (Square 5830, Lots 43-59).

HEARING DATE: February 12, 1986

DECISION DATE: March 5, 1986

FINDINGS OF FACT:

1. The site is located in the 1600 Block on the north side of Gainesville Street, S.E. between 16th and 17th Streets. It is in an R-3 District.

2. The site is rectangular in shape with a frontage of approximately 328 feet along Gainesville Street and 142 feet along 16 and 17th streets. It is made up of 16 smaller lots. A 15th foot wide public alley runs along the north side of the site. The site is unimproved. The site slopes downward to the south from Frankford toward Gainesville Street. There is approximately a 20-foot difference in elevation from the north side of the site to the Gainesville Street frontage. There is evidence of a long history of fill-dumping on the property.

3. The R-3 District extends to the north and east of the site. An R-1-B District is located to the west and an R-5-A to the south of the site.

4. The owner is under contract, subject to zoning approval of the application, to sell the site at a nominal fee to the J. Finley Wilson Memorial Lodge No. 1371. The lodge intends to construct an Elk's club at the site.

5. A fraternal club is not a use permitted in the R-3 District. Pursuant to Paragraph 8207.11 of the Zoning Regulations the applicant is seeking a use variance to establish the club.

6. The proposed lodge would be a one story structure containing 5,496 square feet of gross floor area and measuring roughly 111 feet by 50 feet. Nineteen parking

spaces would be provided. The building would contain a multi purpose room (ball room), kitchen, storage spaces, offices, lavatories, a club room and patio.

7. Seventy percent of the occupancy and use of the building will be by residents of the Lodges Anacostia district and surrounding districts for community service activities, including:

- a) educational programs for adults and youth;
- b) community-based organization meetings and special events programs; and
- c) community-based social activities.

Ten percent of the occupancy and use of the building will be for the conduct of Elk's business, including:

- a) meetings, organizational activities and special programs relating to the administration and operation of the Lodge, and other activities in fulfillment of the Lodge's obligations to the national Elks organizations; and
- b) special social activities for Temples members and friends, including fund-raising activities and
- c) meetings for other Elks groups, upon request.

Ten percent of the occupancy and use of the building will be for the following community-based activities:

- a) meetings, organizational activities, and special programs relating to the administration and operation of the Temples, and other activities in fulfillment of its obligations to the National Elks organization; and
- b) special social activities for Temple members and friends, including fund-raising activities.

Ten percent of the occupancy and use of the building will be for the following community-based activities:

- a) meetings and special events of non-profit organizations in the city, including churches, fraternal, educational and civic organizations; and
- b) the operation of non-profit, community-based groups which require the facility on an emergency basis because of loss due to fire, Act of God, or other disasters.

8. The J. Finley Wilson Memorial Lodge was organized in 1952 to serve the Anacostia community. According to its charter, the boundaries of the area served by the Lodge are the Potomac and Anacostia Rivers on the west and north, Pennsylvania Avenue on the north and east, and the District of Columbia-Maryland boundary on the southeast. The membership of the Lodge is primarily Anacostian and the activities of the organization uniquely relate to Anacostia's social, religious, and civic needs. The Lodge is an essential community service organization.

9. The Lodge has been at its present location at 1015 Howard Road, S.E., for the past nine years. Now it is forced to relocate because Metro has acquired the property as part of the necessary right-of-way for the Green Line Anacostia Station. A thorough search of the Anacostia area within which the Lodge is chartered to serve has been undertaken in an effort to identify a suitable alternative site for the Lodge. Given cost and location constraints, as well as the availability of land, the site for which the variance is requested is the sole property available which meets all of the necessary requirements.

10. The owner, Horning Brothers, a real estate developer, specializing in housing has owned the property for approximately eight years. The lots were purchased with the intent of developing them for townhouse use, as permitted in the R-3 District. After a review of the soil conditions at the site, it was determined that unsuitable fill material -- at depths of between 5 and 20 feet -- existed across the entire area of the property. Because of this unstable condition, the owner determined it was impractical and economically unfeasible to build housing on the site.

11. The owner had been unable to find a purchaser for the property until the Elks Lodge expressed interest in the site.

12. Because the proposed building will only occupy a small area of the total site, it is feasible to expend additional costs in installing a structural system that will overcome the poor soil condition problem.

13. The proposed building and its related parking lot will be located on the lower or southern half of the site along Gainesville Street. A masonry retaining wall will contain the sloping land on the upper half of the property, and site grading at the west end of the property will achieve a natural blending of contours for the property frontage on 16th Street where it joins Gainesville Street. The single-story building is compatible in scale and design with other buildings to which it would relate along Gainesville Street.

14. Directly opposite the proposed multi-purpose Center, across Gainesville Street, is a narrow terrace of open space beyond which lies a deep, wooded ravine. The proposed new multi-purpose Center will face an area of open space all along the south side of Gainesville Street.

15. Immediately west of the site, across 16th Street, S.E., stands the high embankment of the playground of the Lucy Ellen Moten Elementary School. The entire site proposed for the new multi-purpose facility and its associated parking lot will lie approximately 40 feet below the level of the school playground and will pose no conflicts with school activities or pedestrian circulation. The square in which the proposed multi-purpose facility is to be built is undeveloped except for a single, small, one-story house that has been converted to a church. The right-of-way of 17th Street is unimproved along the entire eastern frontage of the square.

16. Gainesville Street is level, wide, and well improved and has sidewalks on both sides. The street carries only light traffic, has few curb cuts, and can easily accommodate the additional traffic that would be generated by the multi-purpose Center.

17. Numerous letters in support of the application were submitted to the record from the community. The proponents, including public and private, religious, service, civic, and educational institutions, as well as individuals, attested to the civic value to the J. Finley Wilson Memorial Elks Lodge to the Anacostia Community.

18. Advisory Neighborhood Commission 8A submitted no report on the subject application.

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

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the applicant is seeking a use variance, the granting of which requires a showing through substantial evidence of a hardship upon the owner arising out of some unique or exceptional condition in the property so that the property cannot reasonably be used for the purpose for which it is zoned. The Board must further find that the relief requested can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Maps.

The Board concludes that the applicant has met the burden of proof. The site's topography and the presence of extensive land fill have imposed unique and exceptional hardship on the owner of the property so that it cannot reasonably be used for the purpose for which it is zoned. Matter-of-right townhouses could not be profitably constructed and marketed on the site because of the additional foundation costs which would have to be incurred. The owner could not find a buyer for the site to use it for another matter-of-right use.

The Board further concludes that the club requires a site in the area in order to serve the community. There are no other appropriate sites in that neighborhood available for the club. The Board further concludes that the relief requested can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan. The club can be constructed and operated on the site without impacting negatively on neighboring properties.

ACCORDINGLY, it is hereby ORDERED that the application is GRANTED SUBJECT to the CONDITION that the construction shall be in accordance with the plans marked as Exhibit No. 14391 of the record.

VOTE: 4-0 (Maybelle T. Bennett, Charles R. Norris, Paula L. Jewell and Carrie L. Thornhill to grant; William F. McIntosh not voting, not having heard the case).

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

ATTESTED BY:


EDWARD L. CURRY
Acting Executive Director

FINAL DATE OF ORDER: _____

JUL 28 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."

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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