

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14403 of Madeleine Lundberg, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the side yard requirements (Sub-section 3305.1) and lot width and lot area requirements (Sub-section 3303.1) to construct a single family detached dwelling in an R-2 District at premises 4806 - 41st Street, N.W., (Square 1736, Lot 26).

HEARING DATE: MARCH 19, 1986
DECISION DATE: APRIL 2, 1986

FINDING OF FACT:

1. The site, known as premises 4806 41st Street, N.W., is located between Ellicott and Davenport Streets. It is one block east of Wisconsin Avenue. The site is in an R-2 Zone.
2. The subject site is trapezoidal in shape with a frontage of 25 feet on 41st Street and an average depth of approximately 102.52 feet. A 20 foot wide public alley abutts the rear property line. The site has an area of 2,563 square feet. It is unimproved. It slopes to the rear property line.
3. The R-2 District extends to the north, east and south of the site. A C-2-A District, the Wisconsin Avenue Corridor, is located to west of the site.
4. The property to the north of the site is improved with a semi-detached single family dwelling, to the south is a single family detached dwelling and across the alley to the rear is a new five story office building.
5. Pursuant to Paragraph 8207.11 of the Zoning Regulations, the applicant is seeking area variances to allow the construction of a single family dwelling.
6. The side yards of the proposed structure will be two feet wide on the south and six feet wide on the north.
7. The lot has an area of 2,563 square feet and a width of twenty-five feet.
8. The entire block was originally subdivided in October of 1892 and the site has remained as originally

subdivided, having always been a separate lot. The site became a nonconforming site on May 12, 1958, the effective date of the current Zoning Regulations.

9. The great majority of homes in the neighborhood of the site do not meet the side yard requirements, or the lot area and width requirements.

10. The existing side yards of the lots on the west side of 41st Street vary from approximately six inches to 6.92 feet. Access to street on the east, they vary from approximately 2 feet to approximately 4 feet (with two houses having one large side yard of approximately 10.5 feet and approximately 21 feet). There are 13 row dwellings on the west side of the block which are nonconforming under present Zoning Regulations.

11. The required eight foot side yards on both sides would only allow a nine foot wide dwelling to be constructed.

12. Other existing lots on the block where the site is located are mostly 25 feet wide, some are 12 feet wide. The widest is 37.5 feet. Other lot areas may vary from 713 square feet to 3,800 square feet, most approximately 2,500 square feet.

13. The proposed structure would be two stories high facing 41st Street and three stories at the rear. It would have two bedrooms and one bath on the second floor; kitchen, living room, dining room and entry on the first floor and a rear entry, family room, bath and bedroom on the lower level.

14. The architectural treatment of the structure will be sympathetic with the existing buildings in the neighborhood.

15. Numerous neighbors of the site submitted a petition to the record in support of a residence being built on the lot if the residence would conform to the style and size requirements of the existing homes along 41st Street.

16. A letter in opposition from owners of property adjacent to the subject site was submitted. They opposed the application on the grounds that they had purchased their home from the applicant and at that time they were assured that the site would remain undeveloped. The neighboring property owners stated that their lot and the site should be consolidated to preserve the open space in the neighborhood. They further stated that the construction of a house on the site would change the character of the neighborhood.

17. A petition in opposition to the application was submitted to the record and additional neighbors of the site

testified in opposition at the public hearing on the grounds that the proposed structure would restrict light and air to neighboring structures. In their opinion, the location of the dwelling on too small an area would devalue neighboring property values and would detract from the historical character of the neighborhood.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the applicant is 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 relief requested can be granted without substantial detriment to the public good and that it will not substantially impair the intent of the zone plan.

The Board concludes that the applicant has met the burden of proof. The subject lot is a nonconforming lot. It was created in 1892. The lot became a lot of record at the time of the subdivision. Due to the size limitations of the site, and the extreme narrowness of the lot, the applicant has a practical difficulty inherent in the site.

Its width is 25 feet which does not meet the current minimum width requirements of 40 feet (Sub-section 3301.1). Thus a variance of 15 feet or 37.5 percent is required. The lot area of the site is 2,563 square feet while a minimum lot size of 4,000 square feet is required (Sub-section 3301.1) thus a variance of 15 feet or 37.5 percent is required. The narrow lot makes it unreasonable for the applicant to provide the minimum 8 foot side yards required (Sub-section 3305.1). If the house were constructed with the required eight foot side set backs it would only be nine feet wide. Thus a variance of six feet, or 75 percent is required to the south, and two feet or 25 percent to the north. The lot width and area cannot be increased as adjacent lots are already developed. The structure as proposed, will have a similar lot size, width and side yards to many of the other structures on the block.

The Board further concludes that it does not have jurisdiction over the transfer of property from one owner to another. The construction of the house as proposed should be compatible with the character of the neighborhood in terms of style, setbacks, mass and lot size.

The Board further concludes that granting the proposed relief will not cause substantially detriment to the public good and will not substantially impair the intent and purpose of the zone plan.

Accordingly, it is hereby ORDERED that the application is GRANTED, SUBJECT to the CONDITION that construction shall be in accordance with the plans marked as Exhibit No. 17 of the record.

VOTE: 4-0 (Charles. R. Norris, Carrie. L. Thornhill, Paula. L. Jewell, and William. F. McIntosh to grant, John. G. Parsons 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 1 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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