

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14583, of Edward A. Markowitz, (the "Applicant") pursuant to Paragraph 8207.11 (11 DCMR 3107.2), for variances from the provisions of Sub-section 3301.6 (11 DCMR 401.6) prohibiting construction of a dwelling on a lot which does not have street frontage and from the provisions of Sub-section 8103.3 (11 DCMR 3202.3) prohibiting construction of a dwelling on an assessment and taxation lot which has not been converted to a record lot to construct a single family dwelling in an R-1-A District at premises known as 2329 Porter Street or 3525 Williamsburg Lane, N.W., (Square 2294, Lot 821).

HEARING DATE: April 22, 1987
DECISION DATE: May 6, 1987

FINDINGS OF FACT:

1. The site, known as premises 2329 Porter Street or 3525 Williamsburg Lane, N.W. is located to the east of Williamsburg Lane and to the north of Porter Street. The site is in the R-1-A District.

2. The site comprises approximately 16,211 square feet. It is irregularly shaped and unimproved. The site is bounded by Rock Creek Park to the north, east and south and lots improved with single family homes to the west. The site has no street frontage.

3. In 1930 a plot was recorded with the office of the surveyor as part of the District of Columbia highway plan which envisioned a Quebec Street linkage with Porter Street, which would have provided direct access to the subject site via a public roadway system.

4. The Quebec Street linkage proposal was abandoned in 1953 when 24th Street, now Williamsburg Lane, was cut through.

5. On May 13, 1980, Michael Minkoff, LTD, then record owner of the subject premises duly executed a declaration of covenants binding on future owners and for the benefit of owners of property abutting the subject premises (the "Declaration of Covenants"). The Declaration of Covenants provided that the subject premises would be improved, if at all, with no more than two residential dwelling structures.

6. By Board of Zoning Adjustment (the "Board") Order No. 13178, dated July 28, 1980, the Board approved an application to allow for no more than two theoretical building sites. The record of the prior Order was incorporated in the subject application. Construction of the proposed dwellings for the subject site was not commenced within a six month period as provided by the prior order and has not commenced thereafter.

7. The site has no street frontage but is served by two right-of-ways, Clifton Avenue from Porter Street and Roosevelt Drive from Williamsburg Drive. The right-of-ways are approximately 25 feet in width and partially improved with macadam and gravel.

8. Advisory Neighborhood Commission (ANC) 3C submitted no recommendation on the application. A member of the ANC testifying on behalf of the Commissioner's Zoning Committee stated that the Committee did not have any objections to the application if it complied with the Declaration of Covenants.

9. Neighbors of the site testified that they were of the opinion that the house should be constructed within the parameters set forth in the Declaration of Covenants. The Board concurs.

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, purpose and integrity of the zone plan.

The Board concludes that the applicant has met the burden of proof. The Board notes that the site is unique and affected by several extraordinary or exceptional conditions. The size of the lot is approximately 16,211 square feet which is far in excess of the minimum required for a detached dwelling in an R-1-A District. The site is land-locked under the Zoning Regulations in that it has no direct street access to the public roadways. Although the site is land-locked it is serviced by private right-of-ways which give direct access to public streets.

The Board further concludes that the proposed single-family dwelling on the site would cause no substantial detriment to the public good nor substantially impair the intent, purpose and integrity 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. 31A of the record.

VOTE: 5-0 (William F. McIntosh, Charles R. Norris, Paula L. Jewell and Carrie L. Thornhill to grant; Lindsley Williams to grant by proxy).

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

ATTESTED BY:


EDWARD L. CURRY
Acting Executive Director

FINAL DATE OF ORDER: JUL 29 1987

UNDER 11 DCMR 3103.1 "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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