

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Appeal No. 14649 of Advisory Neighborhood Commission 3G and Concerned Neighborhood Residents, pursuant to Section 3200.1 from a decision of the Zoning Administrator, made on or about April 23, 1987 to the effect Lot 39, Square 1995 meets the requirements of Section 401.3 of the Zoning Regulations for a lot of record in an R-1-B District at premises between 3501 and 3503 Livingston Street, N.W., (Square 1995, Lot 39).

HEARING DATE: July 30, 1987
DECISION DATE: September 2, 1987

FINDINGS OF FACT:

1. The subject appeal was filed on June 3, 1987, by the Advisory Neighborhood Commission (ANC) 3G and Concerned Neighborhood Residents to challenge the decision of the Acting Zoning Administrator approving a subdivision establishing Lot 39 in Square 1995. On June 3, 1987, the Appellants also filed a Motion to Stay Issuance of a Building Permit for Lot 39, Square 1995 pending the Board's final decision on the appeal.
2. The Board entertained the Appellants' Motion to Stay at a special meeting on June 10, 1987. By Order dated June 23, 1987, the Board granted the motion.
3. The site is located in the Chevy Chase neighborhood of the District of Columbia on the north side of Livingston Street near its intersection with Broad Branch Road to the east. Nevada Avenue is located to the west of Square 1995 and Morrison Road is located to the north. A fifteen foot wide public alley is located to the rear, or north, of the site. The site is located in an R-1-B District.
4. The R-1-B District extends in all directions from the site. The area is developed with single-family detached homes.
5. In October 1985, the owners purchased what were then tax lots 800, 814, and 816 in Square 1995. At the time of purchase, the three lots were vacant. The owners purchased the property with the intention of subdividing the property into three buildable lots so that three houses could be constructed on the property. The three lots together

contained 18,053 square feet of land area and represented the only remaining undeveloped land in the subject square.

6. In December 1985, the property owners subdivided the property into two lots. Lot 35, at the west of site was rectangular in shape with a frontage of 50 feet both along Livingston Street, of at the front and the public alley at the rear. It had a depth of 132.50. Lot 36 located at the east of the site, had a front width of 93 feet along the Livingston Street, and a rear lot width of 67.76 feet along the public alley.

7. In December 1986 the owners applied to the Board of Zoning Adjustment (the Board) for variance relief to allow the subdivision of lot 36 into two lots which would not meet the lot width requirements. The proposed lots would have an average width of 48.07 feet for the western lot and 38.28 feet for the eastern lot. By Order No. 14554, dated June 23, 1987, the Board denied the application.

8. On April 23, 1987 the owners received the Zoning Administrator's approval for subdivision of the lots. This approval is the subject of the appeal. The subdivision resulted in three lots extending from west to east, lot 37, lot 38 and lot 39. Lots 37 and 38 are each rectangular in shape, and have a frontage of 50 feet and a depth of 117.50 feet. Lot 39 is irregularly shaped with a frontage of 43 feet along Livingston Street. A "panhandle" area measuring 15 feet in depth by 100 feet in width, located between the rear of lots 37 and 38 and the public alley, is included in the total lot area of lot 39.

9. The Zoning Administrator determined the average width for lot 39 to be 50.5 feet. The width was calculated by measuring the lot from front to back at ten foot intervals. The appellant testified that without the 100 foot wide by 15 foot deep panhandle addition to lot 39, the lot would have a square footage of 4,802.20 feet which is below the 5,000 square feet minimum lot area required by 11 DCMR 401.3.

10. The appellants argued that the 15 by 100 foot panhandle located to the north of the site is unbuildable space and does not increase the usable width of the lot which never exceeds 43 feet in effective width.

11. The appellants further argued that the 11 DCMR indicates no specific method for obtaining average lot width and that the method used by the Zoning Administrator is not the most accurate way of determining lot width. Other methods used to calculate the lot width would result in an average width of less than 50 feet.

12. The appellants testified that if measurements were taken every ten feet back to front a smaller average width is obtained, approximately 46.4 feet.

13. The appellants testified that the easiest and most accurate method of determining average lot width when front and back lot lines are parallel is to divide the square footage of a lot by its length. The square footage of lot 39 is 6,302.20 square feet. Dividing this by 132.50 feet, the lot's length, calculates out to be an average width of 47.6 feet. This method ensures that owners of newly created, unusually shaped lots with parallel front and rear lot lines, will not be able to obtain approval for those lots unless the lot truly has a minimum average width of 50 feet, and is not dependant on the addition of an irregular panhandle-like configuration creating unbuildable portions of a lot in order to show the final average width.

14. The Board concurs with the appellants' argument that there is a more reasonable method to calculate the lot width of the site.

15. The Zoning Administrator testified that, based upon the Zoning Regulation's, the definition of lot width's: "... the distance between the side lot lines, measured along the building line, except that in the case of an irregularly shaped lot, the width of the lot shall be the average distance between the side lot lines. the Zoning Administrator calculated the width of Lot 39 by measuring the width of the lot along the building line in ten foot increments parallel thereto from the front to the rear of the lot. The Zoning Administator then calculated the average distance between the side lot lines by adding the widths of each increment and dividing by the number of lines. The Zoning Administrator further testifies that his office has been using this method of calculating the width of irregular shaped lots since 1977.

16. Prior to 1977, the Zoning Administrator's Office calculated the average width of irregularly shaped lots by averaging the length of the side lot lines and then dividing that number into the lot area. The Zoning Administrator testified that in 1977 his office abandoned this method of calculation for the current method. He testified that this change in the method of calculation was the result of the Zoning Administrator's decision that the previous method produced inaccurate results, and that the existing method provides a more uniform and consistent result when applied to irregularly shaped lots city-wide.

17. The Board considered a motion, filed by counsel for the owners of the property to dismiss the appeal. The reasoning for the motion to dismiss included the following:

- A. The Appellants do not establish error in the Zoning Administrator's calculation of lot width.
- B. The Zoning Administrator's method of calculating lot width is reasonable and is consistent with the Zoning Regulations.

The Board did not grant the motion to dismiss the appeal and the Board does not concur with the reasoning of the motion and finds that the Z.A.'s method of calculating the lot width resulted in an erroneous measurement of average lot width measurement.

CONCLUSIONS OF LAW:

Based on the findings of fact and evidence of record, the Board concludes that the Zoning Administrator's decision was incorrect in determining that lot 39, Square 1995 meets the requirements of Section 401.3 of the Zoning Regulations for a lot of record in an R-1-B District.

The Board concludes that the method the Zoning Administrator used to determine the average lot width i.e., measuring the lot at ten foot intervals from front to rear and dividing the sum of the width measurements by the number of measurements taken resulted in a distorted average.

The Board notes that the method of calculation referred to above has been used customarily by the Zoning Administrator's office and may be valid for many irregularly shaped lots. However, the Board concludes that when applied to the subject lot the method produces an absurd result. The addition of the panhandle to the rear of the lot does not significantly contribute to the required average lot width. Accordingly, it is ORDERED that the appeal is GRANTED and that the decision of the Zoning Administrator to approve the subdivision dated April 23, 1987, of lot 39, Square 1995 is HEREBY REVERSED.

VOTE: 3-2 (Lindsley Williams, Paula L. Jewell and Carrie L. Thornhill to grant; Charles R. Norris and William F. McIntosh to deny).

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

ATTESTED BY:



EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: MAR 14 1989

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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GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



APPLICATION No. 14649

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a copy of the Order of the Board in the above numbered case, said Order dated MAR 14 1989, has been mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

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EDWARD L. CURRY
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DATE: MAR 14 1989