

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 401.8 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

DISPOSITION: The Board GRANTED the Appeal and REVERSED the decision of the Zoning Administrator by a vote of 3-2 (Lindsley Williams, Paula L. Jewell and Carrie L. Thornhill to grant; Charles R. Norris and William F. McIntosh opposed to the motion).

FINAL DATE OF ORDER: March 14, 1989

ORDER

The Board granted the appeal and reversed the decision of the Zoning Administrator by its Final Order dated March 14, 1989. On March 27, 1989, counsel for the property owners/intervenors filed a motion requesting reconsideration of the Board's decision. The bases for the motion are summarized as follows:

1. The Order in Appeal No. 14649 is arbitrary, in that it singles out the property owners by denying their permit, while at the same time permitting the Zoning Administrator to issue permits to others who are similarly situated.
2. The Order issued by the BZA creates confusion, and gives no guidance to either the Zoning Administrator, to property owners nor indeed to the general public in the District of Columbia.
3. The BZA lacks authority and jurisdiction to overturn the decision of the Zoning Administrator, insofar as the appellants did not allege nor establish error in the Zoning Administrator's calculation of lot width.

4. The Zoning Administrator's method for calculating lot width is consistent with the Zoning Regulations, and this Board should consider -- and honor -- any long standing interpretations of Zoning Regulations which it has approved in the past.
5. The Order violates the doctrine of stare decisis, which requires that any change in interpretation determined by an administrative agency must be prospective only.
6. It is illogical for the BZA to change the interpretation of the Zoning Regulations each time someone is dissatisfied with the results in a particular case.
7. The BZA should have dismissed the Appeal on the grounds of estoppel.

The appellant, Advisory Neighborhood Commission - 3G, opposed the motion for reconsideration. The ANC alleged, in summary, that all of the arguments presented in the motion for reconsideration were presented at the public hearing on July 30, 1987, and, further, that no new evidence has been presented which could not reasonably have been presented at the public hearing.

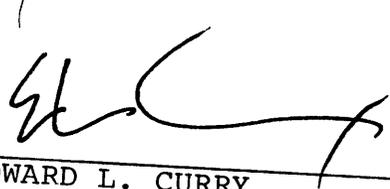
Upon review of the motion, the evidence of record, responses thereto, and the final order, the Board concludes that it has committed no error in deciding the appeal. The Board concludes that the motion raises no materially different issues nor provides any evidence of a substantive nature that the Board has not previously considered and addressed in its Final Order. The Board's decision was based on consideration of all evidence presented by both the appellant and the intervenors. The fact that the Board and the intervenors came to different conclusions does not make the judgment of the Board arbitrary, capricious or unlawful. Accordingly, the motion for reconsideration is hereby DENIED.

DECISION DATE: May 3, 1989

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

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

ATTESTED BY:


EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: _____

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."

14649order/LJP48

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 _____, 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
Executive Director

DATE: MAY 31 1989