

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 14759, of the Ralph D. Kaiser Co., Inc., pursuant to 11 DCMR 3107.2, for the following variance relief:

1. A variance from the allowable percentage of lot occupancy requirements of Sub-section 403.2 (Lots 43, 62, and 810);
2. A variance from the floor area ratio requirements of Sub-section 1203.3 (Lots 43, 62 and 810);
3. A variance from the rear yard requirements of Sub-section 404.1 (Lots 43, 62, and 810);
4. A variance from the number of stories requirements of Sub-section 1203.1 (Lots 43, 62, and 810);
5. A variance from the provisions of Sub-section 2507.1 to construct a structure other than a single-family dwelling (apartment house) on an alley lot (Lots 43, 62, and 810);
6. A variance from the provisions of Sub-section 2507.4 to construct an apartment house which exceeds the allowable height limit (Lots 43, 62, and 810);
7. A variance from the minimum lot area requirements of Sub-section 401.3 (Lots 43 and 810); and
8. A variance from the side yard requirements of Sub-section 405.3 (Lots 43, 62, and 810).

For the proposed new construction of three apartment houses in a CAP/R-4 District at the rear of 424 - 4th Street, N.E., (Square 780, Lots 43, 62, and 810).

HEARING DATES: March 9 and 30, 1988  
DECISION DATE: May 5, 1988

FINDINGS OF FACT:

1. Alley lot 810 is located in the center of Square 780 at the rear of 424 4th Street, N.E. The lot is rectan-

gular and has a width of 70.38 feet, a depth of 54.71 feet, and an area of 3,850 square feet. A three-story, red brick stable occupies all of the lot.

2. Alley lot 62 is located in the center of square 780 at the rear of 422 4th Street, N.E. The lot is rectangular and has a width of 70.37 feet, a depth of 64.71 feet, and an area of 4,554 square feet. The lot is used as a parking lot pursuant to BZA Order No. 14449, which will expire on April 7, 1989.

3. Alley lot 43 is located in the center of square 780 at the rear of 415 3rd Street, N.E. The lot is roughly rectangular and has a width of approximately 68.38 feet, a depth of approximately 54.71 feet, and an area of 3,850 square feet. A two-and-three-story red brick stable occupies all of the lot.

4. The square is bounded by Third, Fourth, D and E Streets, N.E. The southwest corner of the square faces Massachusetts Avenue.

5. The lots are created by six alleys in the interior of the Square. A 25 foot wide alley bisects the entire square from east to west and is the only alley open to Third and Fourth Streets. A 15 foot alley runs parallel to and on each side of the main alley. Three alleys run perpendicularly to the main alley and are 25, 30, and 10 feet wide, respectively the three alleys do not open to the street system. The resulting grid creates four lots. Lots 810, 62 and 43 are located in the northeast, southeast and southwest corners of the center square and lot 42, which is not the subject of the application, is in the northwest corner of the center square.

6. All three lots are located in a CAP/R-4 District which extends one block to the north and two blocks to the east of the subject square. The district is bordered by an R-4 District to the north and east and a CAP/C-2-A District to the south and west. Most of the buildings in the CAP/R-4 District are single-family residences. The subject lots are located near a restaurant in the same square and near several large multi-family residential and office buildings in the adjacent square.

7. Lot 43 was originally a stable and was built in two sections. The exact date of construction of the first part is unknown, but it was not standing in 1887. City documents indicate that it had been completed in 1892. In 1893, the second, or three-story, section was constructed. Both sections of the building are typical of late Victorian secondary structures. The materials relate to the other

buildings in the alley by virtue of the common bond brickwork and the modest corbel at the roofline.

8. The building on Lot 810 was constructed during the summer of 1891 and was widely known in the neighborhood as the "Old Senate Stables." Set on a brick foundation, the building has walls laid in American or common bond pattern. It is 70.4 feet wide and 54.8 feet long and thirty-five feet high at the tallest point of its roof. Original horse stall windows remain in both the east and north walls, the east wall being virtually original. The building's stylistic concept, adapted for utilitarian purposes, is an early example of the classic revival architecture prevalent on Capitol Hill during the early twentieth century.

9. The use of Lots 810 and 43 as livery stables was relatively short-lived. In the early years of the twentieth century, private garages were constructed behind houses throughout the neighborhood and by 1910 the Stanton Park area had its own auto sales company. By the end of World War I, the building had been converted to commercial and manufacturing use. The last certificate of occupancy for the building located on Lot 43 was issued November 29, 1962, to Adam Construction Corporation for storage of building materials. The last certificate of occupancy for the building located on Lot 810 was issued September 1, 1972, to World Art Products, Inc., for designing of neon or gas tubing display.

10. Fires have destroyed all but the stables' brick exterior. The buildings were subsequently condemned and have since remained unoccupied.

11. The applicant intends to raze what remains of the stables and construct a four-story residential apartment building on each of the three lots. The buildings on lots 43 and 810 would be built to the same dimensions as the existing stables, but would exceed their present height by 1.5 feet. The buildings would also preserve the architectural style of the stables.

12. The proposed thirty-nine unit development would contain thirty-four one-bedroom apartments, four efficiency apartments, one apartment for handicapped persons and parking garages for 32 vehicles. Nine of the parking spaces would be leased to the Heritage Corporation during the weekdays. The applicant intends to lease the units for a minimum term of one year.

13. On June 17, 1987, the Historic Preservation Review Board approved the applicant's plans to replace the existing stables on lots 810 and 43 with apartment buildings of similar size and appearance. On June 19, 1987, the Mayor's

Agent approved the applicant's earlier proposal for 47 units in accordance with the requirements of D.C. Law 2-144.

14. On August 27, 1984, the Board issued an order which conditionally approved application No. 14033, 14034 and 14107. The applicant in that case had proposed to convert the stables on lots 810 and 43 to mixed commercial and residential use. Each renovated stable would have contained two duplex apartments and professional offices. The Board's approval was subject to the following conditions:

- a. Construction shall be in accordance with the plans marked as Exhibit No. 37 of the record.
- b. The office use portions of Lots 43 and 810 shall be limited to the types of office uses listed in Paragraph 4101.44 of the Zoning Regulations and lobbyist offices.
- c. The applicant shall provide a minimum of twenty-three parking spaces on the site, eight of which shall serve the residential portion of the development and fifteen of which shall serve the office portion of the development.
- d. Of the fifteen parking spaces designated for the office use, one shall be reserved exclusively for delivery vehicles and one shall be reserved exclusively for visitor parking.
- e. The number of employees to occupy the office space shall not exceed forty-four.
- f. The hours of operation for the office use shall not exceed from 8:00 A.M. to 6:30 P.M., except for after hours maintenance and housekeeping.
- g. No illuminated signs or displays shall be used to advertise the office use. Any sign used shall not exceed 144 square inches in area as in the form of a plaque.
- h. The office use shall schedule trash pick-up and delivery truck schedules during working hours. Trash locations shall be as designated on the approved plans.
- i. The pool/deck shall be screened to buffer the sound and visual impacts associated with its use from the neighboring properties.

Renovation of the stables was never begun because the applicant was unable to secure financing for the project.

15. The Board finds that the proposed development would not have a significantly greater impact on neighborhood parking than a matter-of-right use. According to the applicant's testimony, the number of spaces provided would exceed those actually needed by more than ten spaces. Many of the development's residents will not have cars. Those vehicles, if any, which are unable to park in the spaces provided would not significantly reduce the availability of parking on the surrounding street system.

16. The Board finds that the height and size of the proposed development will not be so great as to substantially affect the light and air benefitting the neighboring property. The Board also finds that the development will not substantially reduce the privacy or tranquility enjoyed by residents in the surrounding rowhouses because each rowhouse is insulated from the center of the square by a rear yard.

17. The Board finds that the development will have a minimal impact on traffic in the surrounding street system or the interior alleys. The 10 peak hour trips generated by the proposed development will not effect the level of service at nearby intersections.

18. The lots are in the jurisdiction of Advisory Neighborhood Commission (ANC) 6A. The ANC filed a report dated March 1, 1988, indicating that it had voted to oppose the applicant's earlier proposal for a 47 unit apartment development. It's opposition was based on contentions that the size of the proposed development would be incompatible with the surrounding neighborhood and would significantly reduce the light, air, and privacy enjoyed by neighboring residents. The ANC also found that the density would exacerbate traffic congestion and parking shortages without any increase in green space. Having given the ANC report "great weight" in its decision, the Board nevertheless disagrees with the ANC findings. The ANC also expressed its concern that the development would create a significant fire hazard. The narrow alleys might prevent fire equipment from reaching the proposed development, and the development's demands on the water system might cause pressure to fall below that necessary to ensure adequate fire protection. This concern is relevant to the development's impact on the surrounding neighborhood, but the Board finds that the concerns can be satisfied and the revised project is acceptable as proposed. The detailed standards and guidelines are best addressed by the Fire Department and the Department of Public Works during their permit review of the applicant's proposal.

At the hearing, ANC representatives noted that the elimination of eight units would not significantly alter the ANC's position against the proposed development.

19. The Office of Planning (OP) filed a written report dated March 1, 1988, recommending that the Board deny the applicant's request. The OP noted that the development would complement the design of adjacent buildings and replicate the size and appearance of the existing stables without a significant impact on light or air, but opposed the development because its density would be inconsistent with the prevailing density of the square. At the hearing an OP representative acknowledged that a 39 unit development would have less impact than the original 47 unit development on which the report was based. The Board concurs with the OP's findings but does not believe the density of the 39 unit development to be not inconsistent with the prevailing density of the neighborhood.

20. A number of residents appeared at the hearing and introduced letters for the record to express their opposition to the applicant's proposal. The Stanton Park Neighborhood Association and the Capitol Hill Restoration Society were not represented at the hearing, but filed letters in opposition dated March 7, 1988, which expressed the groups' opposition to the proposal. The opposition focused primarily on the density of the proposed development and the resulting adverse impact on traffic, parking, light, air and privacy. Having examined the evidence of record, the Board finds that the proposal will have no adverse impact on the surrounding neighborhood. Additional concerns were expressed as to the proposal's impact on fire safety. The Board responds to this issue in the same manner as it did to the ANC in Finding No. 18.

21. The opposition also argued that the demolition of the stables on lots 810 and 43 would eliminate the style feature which makes the lots unique. The opponents also contend that the applicant's hardship, if any, is self-inflicted because the applicant is under no pressure to replace the stables with buildings of a comparable size. The Board disagrees, the lots are unique not because of the stables but because of the Historic Preservation Review Board (HPRB) request that they be replaced with buildings of similar size and appearance. The HPRB request and the extreme size of the stables make the construction of conforming structures impractical.

#### CONCLUSIONS OF LAW AND OPINION:

The applicant is requesting variances pursuant to 11 DCMR 3107.2 from the strict application of the lot occupancy requirement of Sub-section 403.2, the floor area ratio requirements of Sub-section 1203.3, the rear yard requirement of Sub-section 404.1, the number of stories requirements of

Sub-section 1203.1, the restrictions on the construction of structures other than single-family residences on an alley lot contained in Sub-section 2507.1, the maximum height requirement of Sub-section 2507.1, and the minimum lot area requirement of Sub-section 401.3. The applicants have requested these variances for each of the three lots except lot 62, which requires no variance from the the minimum lot area requirement.

To qualify for the variances, the applicant must show that it has suffered an exceptional hardship or practical difficulty resulting from unique "topographical conditions or other ... exceptional ... condition of a specific piece of property." 11 DCMR Sub-section 3107.2 (1987). The applicant must also show that the variances requested would relieve the hardship without "substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan".

Based on the foregoing Findings of Fact, the evidence of record, and the conditions hereinafter imposed, the Board concludes the applicant has met the requirements of Sub-section 3107.2 as they relate to each of the variances requested. The applicant has shown that lots 810 and 43 are unique because of the Historic Preservation Review Board (HPRB) request that the existing stables be replaced with structures of a comparable size. Lot 62 is also unique because of its proximity to lots 810 and 43. The HPRB request and the size of the stables have made the construction of more conforming structures impractical. The proximity of the lots has made the construction of a conforming structure on lot 62, impractical because a less integrated development would also be very difficult to achieve. The Board also concludes that the applicant has shown no adverse impact on neighborhood traffic or parking or the light, air, privacy and quiet enjoyed by area residents.

Having afforded ANC 6A the "great weight" to which it is entitled, the Board ORDERS that the application be GRANTED, SUBJECT to the following CONDITIONS:

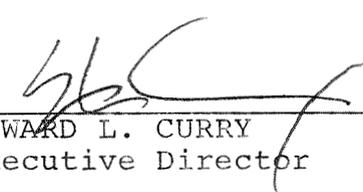
1. Construction shall be in accordance with the plans marked as Exhibit No. 75 of the record, which depict a unit count of 39 units.
2. The applicant shall provide a minimum of 32 parking spaces on the site, 9 of which shall be subject to a daytime use agreement with the Heritage Foundation which shall expire no later than April 7, 1989.

3. The applicant shall be granted flexibility to modify the interior plan to combine units as long as the unit count of 39 units is not exceeded.
4. The applicant shall be granted flexibility to make any adjustments in the design of the building that are necessitated by the final review by the staff of the Historic Preservation Review Board.
5. The applicant shall devote one apartment to use by a resident manager who will be responsible for overseeing the maintenance and operation of the project.
6. The applicant shall impose a minimum lease term of one year on the rental of all units in the subject project.

VOTE: 3-2 (Charles R. Norris, Carrie L. Thornhill and Paula L. Jewell to grant; William F. McIntosh opposed to the motion; Maybelle Taylor Bennett opposed to the motion by proxy).

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

ATTESTED BY:

  
EDWARD L. CURRY  
Executive Director

FINAL DATE OF ORDER:

DEC 16 1988

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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