

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14854 of the Ravenna Corporation, pursuant to 11 DCMR 3107.2, for a variance from the minimum lot area requirements (Sub-section 401.3), a variance from the rear yard requirements (Sub-section 404.1), a variance from the side yard requirements (Sub-sections 405.3 and 405.9), and a variance from the percentage of lot occupancy requirements (Sub-section 403.2) for the proposed new construction of a single-family dwelling in an R-3 District at premises 3278 Prospect Street, N.W., (Square 1206, Lot 832).

HEARING DATE: July 27, 1988
DECISION DATE: September 7, 1988

FINDINGS OF FACT:

1. The property is located on the south side of Prospect Street between 33rd and Potomac Streets and is known as premises 3278 Prospect Street, N.W. It is zoned R-3.
2. The site is generally rectangular in shape with a frontage of 42.7 feet along Prospect Street and a maximum depth of approximately 34.9 feet. The site is currently unimproved and contains a lot area of approximately 1,441.07 square feet.
3. Surrounding land uses to the north of the site on Prospect Street are two-story row dwellings in the R-3 District. To the east are the rear yards of two row dwellings which front on Potomac Street. To the south is the Eton Condominium development in the C-2-A District. To the west are the rear yards of row dwellings fronting on 33rd Street in the R-3 District.
4. The subject lot is located within the boundaries of the Georgetown Historic District. Development of property located within that district is subject to review by the Commission of Fine Arts.
5. The applicant proposes to construct a three-story plus basement row dwelling. The proposed dwelling would be of construction with an exterior building dimension of approximately 42.66 feet by 23 feet with a 2.66 foot balcony at the rear of the west side of the first floor. The proposed dwelling would provide four bedrooms, four baths, living room, dining room, sitting room and kitchen.

6. The R-3 District requires a minimum lot area of 2,000 square feet. The area of the subject lot is 1,441.07 square feet. A variance from the lot occupancy requirement of 558.9 square feet or 27.9% is therefore required.

7. The proposed single family dwelling is freestanding and does not share a common division wall with another building. A minimum side yard of eight feet is required. The proposed dwelling does not provide any side yard. A variance from the side yard requirement of eight feet or 100% is therefore required.

8. The R-3 District requires a minimum rear yard of twenty feet. The proposed dwelling provides for a rear yard measuring an average of approximately 6.4 feet. A variance from the rear yard requirements of 13.6 feet or 68% is required.

9. The R-3 District provides for a maximum lot occupancy of the site of sixty percent or 864.64 square feet. The proposed lot occupancy is 1,007.04 square feet. A variance of 142.4 square feet or 9.9% is therefore required.

10. By its Order No. 13404 dated May 4, 1981, the Board approved variance relief to allow the construction of a row dwelling on a theoretical lot at the subject site as part of the Eton Condominium Development. The record in Application No. 13404 is incorporated herein by reference.

11. The applicant argued that the requested variances should be granted for the following reasons:

- a. The building footprint, lot occupancy and siting on the property are essentially identical to that approved by BZA Order No. 13404.
- b. The property was subdivided prior to the adoption of the 1958 Zoning Regulations.
- c. The lot is exceptionally wide and shallow, measuring 34.98 feet at its deepest point.
- d. The topography of the site slopes steeply from grade to a level of approximately six feet below grade.
- e. Abutting and nearby lots are substandard as to lot area and are generally narrow and deep.
- f. There is a five foot wide pedestrian passage on the east side of the property which provides access to the Eton Condominium Development from Prospect Street and reduces the available floor area on the first floor level of the dwelling.

- g. The applicant is unable to increase the lot area of the site because adjoining lots are fully developed.

12. By memorandum dated July 19, 1988, the Office of Planning (OP) recommended that the application be approved. The OP was of the opinion that prohibition of the development of the site based on its substandard size would unfairly prohibit the owner's use of the property. The OP was of the view that side yards would serve no meaningful separation of structures. The five feet pedestrian passageway would, in OP's opinion, provide access to Prospect Street for the residents of the Eton Condominium and provide an attractive public amenity. The OP concludes that development of the site as part of the successful operation of the overall townhouse development would not impair the intent, purpose and integrity of the Zoning Regulations.

13. By representative at the public hearing and correspondence dated July 18, 1988, Advisory Neighborhood Commission (ANC) 2E recommended denial of the application for the following reasons:

- a. The development rights of the subject site were transferred to permit construction of the Eton Condominium Development.
- b. The Board's approval of the construction of a dwelling on the site in Order No. 13404 was an alternative to a vehicular entrance to the Eton Condominium Development from Prospect Street.
- c. The proposed dwelling is too large for the site and would adversely affect the light and air of adjoining properties, particularly the residences within the Eton Condominium Development.
- d. Approval of the requested variances would set a dangerous precedent for the future preservation of open space amenities offered by developers during the approval process for initial development of a project.

14. The record contains several letters in opposition to the application and several nearby property owners testified in opposition at the public hearing. In addition to the issues and concerns raised by the ANC, the parties in opposition noted that the Eton Condominium has maintained the subject site as open space over the years and questioned the actual ownership of the property by Ravenna Corporation.

15. The Board left the record open at the conclusion of the public hearing to allow the submission of a letter of

authorization from the record owner of the property to permit Ravenna Corporation to process the subject application and for a supplemental report from the Office of Planning addressing whether there had been a transfer of development rights involving the subject site and the Eton Condominium Development.

16. By memorandum dated August 8, 1988, the Office of Planning (OP) indicated that neither the Zoning Administrator's Office nor the D.C. Surveyor's Office had records indicating any connection between the subject site and the abutting condominium property.

17. On August 17, 1988 the applicant submitted a letter from the Managing General Partner of M & Potomac Streets Ltd. Partnership authorizing Ravenna Corporation to act as the owner's representative in the instant application.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing Findings of Fact and the evidence of record, the Board concludes that the applicant is seeking area variances, the granting of which requires the showing, through substantial evidence of a practical difficulty upon the owner arising out of some exceptional or extraordinary condition inherent in the property itself and that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zone plan.

The Board concludes that the applicant has not met the requisite burden of proof. The shallowness and small size of the lot, although exceptional conditions, do not justify the extensive area variances requested. The lot, as currently configured, does not conform to the address and dimensions which were the basis of the Board's previous approval and therefore can not possibly pre-date the adoption of the 1958 Zoning Regulations as evidenced by the changes in the lot since the issuance of BZA Order 13404, dated May 4, 1981. In the Board's opinion, the exceptional conditions of the property cited by the applicant can not properly be considered as a basis for the granting of variance relief because such conditions were either created or exacerbated by the owner's resubdivision of the lot subsequent to the adoption of the Zoning Regulations and such conditions are, therefore, self-imposed.

The Board further concludes that the requested variances are substantial in nature and cannot be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zone plan. The Board has accorded to the ANC, the

"great weight" to which it is entitled. Accordingly it is ORDERED that the application be DENIED.

VOTE: 3-0 (William F. McIntosh, Carrie L. Thornhill and Paula L. Jewell to deny; Charles R. Norris not voting, not having heard the case).

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

ATTESTED BY:



EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: JUN 12 1990

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."

14854order/BHS21

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



APPLICATION No. 14854

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that copies of orders dated JUN 12 1990 have been mailed postaged prepaid denying reconsideration and denying a stay have been mail to each parties, 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: JUN 12 1990