

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14929 of John C. Phillips and Elizabeth E. Keegin, pursuant to 11 DCMR 3107.2, for a variance to allow a subdivision, creating lots that do not meet the minimum lot area requirements (Sub-sections 101.6 and 401.3) for a proposed subdivision in an R-1-B District at the corner of 2nd and Laurel Streets, N.W., (Square 3361, Lots 8, 9 and 53).

HEARING DATE: March 22, 1989
DECISION DATE: April 5, 1989

FINDINGS OF FACT:

1. The property is bounded by Laurel Street to the west and Second Street to the east, between Walnut Street and Eastern Avenue. The property is zoned R-1-B.

2. The site is irregular in shape with a frontage of 204.85 feet along Laurel Street and 104.70 feet along 2nd Street. The site contains approximately 9,790.5 square feet of lot area.

3. The site is unimproved and contains several large, mature trees. The property does not have alley access.

4. The applicant proposes to subdivide the site into two lots, each of which is proposed to be sold and developed with a single-family detached dwelling. The minimum lot area required in the R-1-B District is 5,000 square feet.

5. The subject lots have been owned by the applicants' family for approximately fifty years. At the time that the property was originally purchased, the subject site contained three buildable lots. The property was subsequently rezoned to R-1-B. The adjacent lot at 6748 2nd Street was previously owned and developed by the applicants with a single family detached dwelling. That property is irregularly shaped and has a lot area of approximately 2,894 square feet.

6. The applicants presented two subdivision proposals to the Board. The first proposal would result in the subdivision of the property into two lots, each containing 4,895.25 square feet of lot area and requiring a variance of 104.75 square feet or 2.9 percent for each lot. The second proposal would allow the applicant to convey an area of approximately 294.5 square feet to the adjacent property at 6748 2nd Street and would result in the subdivision of the

remainder of the property into two lots containing 4,748 square feet and requiring a variance of 252 square feet or 5.04 percent for each lot. The proposed conveyance to the neighboring property would result in a more regularly shaped lot and would further increase the lot area of that currently nonconforming site.

7. The square in which the subject site is located is triangular in shape. It is developed with single-family detached and semi-detached dwellings on lots ranging in area from 2,748 square feet to 7,094 square feet.

8. The property is located in close proximity to the Takoma Park Seventh Day Adventist Church and education building, the Takoma Metro Station, and the Takoma Park Historic District.

9. The site is bordered by public streets except on the southern side where it abuts properties currently improved with single family dwellings. Both adjacent properties have lot areas which do not meet the minimum standards of the Zoning Regulations. The applicants are, therefore, unable to acquire additional land in order to meet the minimum lot area requirements.

10. With the exception of one triangularly shaped lot located at the southern end of the square and the subject site, the frontage of the majority of the lots in the subject square range in width from thirty feet to fifty feet. The applicants argued that subdivision of the existing three lots into a single lot would result in development which would be out of character with existing development in the area due to its existing frontages of 204.85 feet on the west and 104.70 feet on the east. The applicants further argued that the cost of developing such a lot with one dwelling would be prohibitive and not in keeping with existing property values in the area.

11. The Office of Planning (OP), by memorandum dated March 15, 1989, recommended that the application be approved. The OP was of the opinion that the proposed subdivision would create lots which closely conform to the lot size requirement in the R-1-B District. The OP was further of the opinion that the irregular shape of the lot causes a practical difficulty for the owners to develop the property in accordance with the Zoning Regulations and that the existing situation could deprive the owners of reasonable use of the property.

12. Advisory Neighborhood Commissions (ANC) 4B made no recommendation on the application.

13. By letter dated March 17, 1989 and a representative at the public hearing, Plan Takoma opposed the granting of the application based on the following:

- a. Any lot which does not meet the minimum lot area is undesirable and would increase the potential for overbuilding in the community.
- b. No financial burden has been presented in support of the case.
- c. The triangular, sloped lot with many mature trees provides a small park atmosphere and its configuration would make it difficult to design an architecturally compatible home.

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 an area variance, the granting of which requires the showing of an exceptional or extraordinary condition of the property which creates a practical difficulty for the owner. 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 or integrity of the zone plan as embodied in the Zoning Regulations and Map.

The Board concludes that the applicant has met the requisite burden of proof. The site is large and irregularly shaped. Prior to the adoption of the current R-1-B zoning, the site could have been developed with three dwellings. If the Zoning Regulations are strictly enforced, the site could be developed with one dwelling on a single lot which is considerably larger than the remaining properties in the square. The requested variance relief is minimal and would permit the use of a vacant lot for residential development in keeping with the use, character, and density of neighboring properties.

The Board further concludes that the requested relief, as hereinafter conditioned, can be granted without substantially impairing the intent, purpose and integrity of the Zoning Regulations and will not tend to adversely affect the use of neighboring property. Accordingly, it is hereby ORDERED that the application is GRANTED SUBJECT to the CONDITION that the subdivision shall be revised as shown on the plat marked as Exhibit No. 19 of the record.

VOTE: 4-1 (Charles R. Norris, Carrie L. Thornhill and Paula L. Jewell to grant; John G. Parsons to grant by proxy; William F. McIntosh opposed to the motion).

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

ATTESTED BY:



EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: AUG 31 1989

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS 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.

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.

14929order/BHS8

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



APPLICATION No. 14929

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 AUG 31, 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: AUG 31 1989

attestation/BHS8