

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14987, of Patrick J. Byrne, as amended, pursuant to 11 DCMR 3107.2 for a variance from the minimum lot width and area requirements (Sub-section 401.3), for the proposed construction of three dwellings in an R-4 District at premises 608 and 610 Elliott Street and 1350 F Street, N.E. (Square 1028, Lots 113, 114 and 115).

HEARING DATES: March 22, and July 28, 1989
DECISION DATES: April 5, June 28, and September 6, 1989

FINDINGS OF FACT:

1. The Board originally granted the application by a vote of four to zero at its public meeting of April 5, 1989. Prior to the issuance of a written decision on the case, the Board, at its special public meeting of June 28, 1989, reopened the record on its own motion and set the case for further hearing, limited to the issue of the "uniqueness" of the subject property as it applies to the variance test under Sub-section 3107.2 of the Zoning Regulations. The further hearing took place on July 28, 1989.
2. The properties are located at the northwest corner of the intersection of Elliott and F Streets, northeast of the Capitol Hill Historic District, and are known as premises 608 and 610 Elliott Street and 1350 F Street, N.E. The properties are zoned R-4.
3. Lots 113 and 114 each have eighteen feet of frontage along Elliott Street and a depth of fifty-two feet. Lot 115 has 17.34 feet of frontage along F Street and a depth of sixty-four feet.
4. The lots are generally level and rectangular in shape. Lots 113 and 114 each contain 936 square feet of lot area. Lot 115 contains 1,109.76 feet of lot area.
5. The subject premises are currently unimproved. The applicant proposes to construct three single family row dwellings on the subject site.
6. The area surrounding the subject site is predominantly developed with older single-family row dwellings on narrow lots. There are several small apartment buildings in the area, as well as several small commercial establishments and churches. Purity Baptist Church is located in the same

square. A major Metrobus line operates along Maryland Avenue, one block north of the subject site.

7. The R-4 District permits matter-of-right development of residential uses, including row dwellings, provided that the applicant provide a minimum lot area of 1,800 square feet and a minimum lot width of eighteen feet. The applicant is seeking variance relief from the lot area requirements for Lots 113 and 114, and from the lot width requirements for Lot 115 to permit the development of the site with three row dwellings. The proposed row dwellings comply with the lot occupancy, rear yard, parking, and height requirements of the Zoning Regulations.

8. The subject sites are bordered by Elliott Street on the east, F Street on the south and a ten foot wide public alley on the north. To the west of the sites are substandard sized lots which are developed with single family row dwellings. The applicant is therefore unable to obtain additional land to bring the subject lots into compliance with the minimum area requirements to permit matter-of-right development of the lots.

9. The subject square was generally subdivided and developed prior to the adoption of the 1958 Zoning Regulations. The majority of the lots in the subject square are currently developed with structures which predate the Zoning Regulations. The subject square contains only four lots which are of similar size or smaller than the subject lots. Each of these lots is developed with a row dwelling.

10. The subject lots, as subdivided, fall severely short of the lot area requirements of the Zoning Regulations. The lots were subdivided before the current Zoning Regulations were enacted and became nonconforming because of their small size and, therefore, can not be developed as presently configured.

11. The subject lots, if combined to form one lot of record, would result in an oddly shaped lot which would be out of character with the area in terms of its configuration and excessive lot area. The resultant lot would permit development of a structure containing a flat. Due to the configuration and size of the resultant lot, any structure developed on the site would be out of character with existing development in the area. The applicant would not be permitted to develop the combined sites with an apartment building, such as the existing building north of the public alley, because the R-4 District only permits conversion of structures existing prior to the enactment of the Zoning Regulations to apartment use.

12. The Office of Planning (OP), by memoranda dated March 15, and July 21, 1989, recommended that the application be

approved. The OP was of the opinion that the size, configuration and vacant status of the subject lots creates a uniqueness inherent in the property itself and that the applicant would suffer a practical difficulty if the Zoning Regulations were strictly enforced in that the only possible way that the applicant could develop the subject lots in harmony with the Zoning Regulations and existing development would be with the requested area variances.

13. By letters dated March 9, and June 27, 1989, Advisory Neighborhood Commission (ANC) 6A, opposed the application. The ANC's opposition was based generally on the following:

- a. The design of the proposed dwellings were not compatible with existing neighborhood development due to the provision of wooden siding and garages facing the street.
- b. Curb cuts would cause parking problems.
- c. Fewer than three dwellings should be constructed to prevent overcrowding and problems with access to rear yards.
- d. The uniqueness of the lots would support required lot area waivers for two dwellings but could not support waivers necessary for three dwellings.

14. By letters dated March 1, and July 26, 1989, the Capitol Hill Restoration Society (CHRS) supported the granting of the application subject to the condition that each structure be limited to one unit only. The CHRS was of the opinion that the small size of the lots and the narrowness of one of the lots created the variety of hardship required to grant the variances. The CHRS was further of the opinion that the vacant, substandard lots which are the subject of this case were not caused by actions of the owners and that the requested variances are necessary to make development of the lots viable.

15. The record contains one letter of support from the owner of 1365 F Street. The support was based on the removal of the existing vacant sites as eyesores, the proposed dwellings will improve the appearance of the neighborhood, and the provision of parking on each site will minimize parking impacts on the neighborhood.

16. In response to the issues and concerns raised by the ANC, the applicant submitted revisions to his original proposal which resulted in the following:

- a. The substitution of brick for the originally proposed wood siding to the exterior of the proposed dwellings (Exhibit No 31.).

b. The provision of public easements to ensure rear yard access (Exhibit No. 32).

c. The elimination of the garage from one of the lots facing Elliott Street with provision for off-street parking in the rear yard accessed from the ten foot wide public alley (Exhibit No. 42A).

17. In addressing the issues and concerns raised by the ANC, the Board finds that the applicant has made a reasonable effort to address their opposition as reflected in the revisions to the original proposal submitted by the applicant. The Board further finds that the proposed development, as revised, will be consistent with existing development in the area and will not result in any detrimental impacts on adjoining and nearby properties.

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 require a showing through substantial evidence of an exceptional or extraordinary condition inherent in the property itself which would result in a practical difficulty upon the owner. The Board concludes that an exceptional condition of the property exists and that the applicant would suffer a practical difficulty if the Zoning Regulations were strictly enforced.

The existing lots are substandard with respect to lot area and Lot 115 is further substandard with respect to lot width as a result of a subdivision which predates the enactment of the 1958 Zoning Regulations. The existing nonconforming size of the lots precludes development of the lots without variance relief. The applicant is unable to obtain additional land area in order to increase the area of the subject lots to the minimum size prescribed by the Zoning Regulations. The proposed development will comply with the lot occupancy, rear yard and height requirements of the R-4 District.

The Board further concludes that the proposed development is consistent with the intent and purpose of the R-4 District. The Board concludes that it has afforded the ANC the "great weight" to which it is entitled and that, as hereinafter conditioned, the requested relief can be granted without substantial detriment to the public good and that it will not substantially impair the intent, purpose or integrity of the Zoning Regulations or map. Accordingly, it is hereby ORDERED that the application is GRANTED, SUBJECT to the CONDITION that construction shall be in accordance with the revised plans marked as Exhibit Nos. 31, 32 and 42A of the record.

VOTE: Public Meeting of April 5, 1989 -- 4-0 (Charles R. Norris, Carrie L. Thornhill, William F. McIntosh, and Paula L. Jewell to grant).

Public Meeting of June 28, 1989 -- 4-0 (Carrie L. Thornhill, Paula L. Jewell, William F. McIntosh and Charles R. Norris to reopen the record and set the application for further hearing).

Public Meeting of September 6, 1989 -- 4-0 (William F. McIntosh, Charles R. Norris, Paula L. Jewell and Carrie L. Thornhill to grant).

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

ATTESTED BY:


EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: SEP 21 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.

14987order/ljp49

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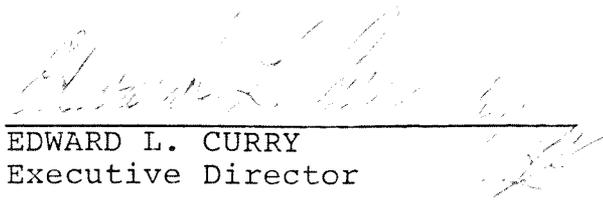
APPLICATION No. 14987

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a letter has been mail to all parties, dated SEP 21 1999, and mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

~~P~~^ATRICK J. Byrne
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Clarence Martin, Chairperson
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Maury Elementary School
13th & Constitution Ave., N.E. Room 10
Washington, D. C. 20002

Capitol Hill Restoration Society
c/o Lawrence A. Monaco, Jr.
1002 Penn. Ave., S.E.
D.C. 20003


EDWARD L. CURRY
Executive Director

DATE: SEP 21 1999