

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15169 of the Copper Beach Valley Company, N.V., pursuant to 11 DCMR 3108.1 and 3107.2, for a special exception under Sub-section 411.11 to allow a mechanical penthouse which does not meet the setback requirements, and a variance from the rear yard requirements (Sub-section 774.1) for construction of a retail/office building with an accessory parking garage in a C-4 District at premises 1430 K Street, N.W., (Square 218, Lots 808 and 823).

HEARING DATE: November 8, 1989
DECISION DATE: November 8, 1989 (Bench Decision)

FINDINGS OF FACT:

1. The property is located on the south side of K Street between 14th and 15th Streets and is known as premises 1430 K Street, N.W. It is zoned C-4.

2. The site consists of two lots and is irregularly shaped with a frontage of 80 feet along K Street and a depth of varying dimensions ranging from 80 feet, 7 inches to 93 feet, one inch. The site has a total lot area of 7,196.4 square feet.

3. The site is located between McPherson and Franklin Squares in an area characterized by office development with ground floor retail. To the east of the site is a six-story office/retail structure known as the Orme Building. To the west of the site is a twelve-story office structure known as the Carry Building. The remaining frontages of the subject square are generally developed with 10 to 12-story office/retail structures consistent with the C-3 zone district.

4. The site is currently improved with two structures: (a) a 13-story office building with ground floor retail at 1430 K Street, and (b) a 15-story concrete structure originally built as a parking garage which was later converted into a record storage facility at 1426 K Street.

5. The applicant proposes to raze the two existing structures and construct a 12-story office building with ground floor retail. The proposed office building will be 130 feet in height and have a floor area ratio of 10.0. The project will include 35 parking spaces, one loading berth, one service delivery space, and one loading platform. Access to the parking garage and loading facilities will be via the public alley which deadends at the rear of the site.

6. The facade treatment and massing of the proposed building has been designed to relate to the neo-classical style of the surrounding buildings.

7. The C-4 District requires a rear yard of 2.5 inches per foot of vertical height but not less than twelve feet commencing twenty feet above the mean finished grade. The required rear yard may be measured from the middle of an alley abutting the rear property line. The proposed structure requires a rear yard of 27.08 feet. The applicant proposes to provide a rear yard of 16.23 feet measured from the rear property line. A variance from the rear yard provisions is therefore required.

8. The C-4 District provides for a maximum height of roof structures of 18.5 feet, set-back from the exterior walls of the structure a distance at least equal to the roof structure's height. The applicant is seeking special exception approval pursuant to Sub-section 411.11 in order to deviate from the 18.5 feet setback requirements at the sides and rear of the proposed structure.

9. As to the rear yard variance, the applicant testified that the property is affected by an exceptional condition based on the following:

- a. The shallowness and irregular depth of the site limit the amount and configuration of useable office space on the site. The provision of a 27.08 feet rear yard would result in an office building with a depth ranging from 53 to 65 feet. The internal configuration of space which could be provided in a structure of those dimensions would be functionally impractical and would force the applicant to abandon plans to redevelop the site.
- b. The subject site is the only non-corner lot in the subject square and within the 13 surrounding squares which lacks public alley access running the length of its rear property line, therefore, the rear yard must be measured from the rear property line instead of from the middle of the adjacent alley.

10. The applicant further testified that the proposed 16.23 foot rear yard is consistent with the 12 to 19 foot rear yards provided by other structures in the square. The building directly east and west of the site occupy 100 percent of their lots. The proposed reduced rear yard will, therefore, not adversely impact immediate adjacent buildings in terms of reduced light and air.

11. As to the special exception, the applicant testified that the small in-fill nature of the site renders full compliance with the roof structure setbacks impractical. Efforts to locate the

roof structure the requisite 18.5 feet from all exterior walls produced an inefficient internal layout of office space and the proximity of the roof structure to the front of the site would result in increased visibility from K Street. The proposed roof structure would be setback 32 feet from K Street to the north, 16.33 feet on the east and west, and 4.5 feet to the south. In order to minimize the impacts of the penthouse on adjacent properties, the applicant reduced the floor area ratio of the roof structure from .37, which is permitted as a matter-of-right, to .25. In addition, the proposed location of the penthouse would preserve the sightlines from K Street, the only public street on which the site has frontage.

12. The Office of Planning (OP), by memorandum dated November 1, 1989, recommended approval of the application. The OP was of the opinion that the size and shape of the site produced a practical difficulty for the owner. The OP was further of the opinion that the proposed project would improve the urban fabric of the Franklin Square subarea and contribute towards meeting the goals and objectives of the Comprehensive Plan.

13. Advisory Neighborhood Commission (ANC) 2C, by letter dated November 6, 1989, supported the granting of the application. The ANC was of the opinion that the small size of the lot resulted in the need for the requested relief in order to provide a viable floor plan and to minimize the visibility of the roof structure from K Street.

14. One person appeared in opposition to the application at the public hearing. The opposition consisted solely of concerns related to treatment of and notification to the tenants of the existing building based on the proposed demolition and redevelopment. The Board notes that such concerns are beyond its jurisdiction.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing facts and the evidence of record, the Board concludes that the applicant is seeking an area variance and a special exception.

The granting of the requested rear yard variance requires the showing of an exceptional or extraordinary condition inherent in the property which creates a practical difficulty upon the owner. The Board concludes that the property is affected by an extraordinary condition by virtue of its irregular shape, shallow depth, and the lack of a public alley along the length of the rear property line. The Board further concludes that the strict application of the Zoning Regulations would create a practical difficulty upon the owner in that the design constraints imposed by the size and shape of the lot would result in a shallow,

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As to the special exception, the applicant must demonstrate that it has complied with the criteria set forth in Sub-section 411.11 and 3108.1. The Board concludes that the applicant has so complied. The shallow and irregular depth of the lot renders full compliance with the roof structure setback requirements unduly restrictive. The setbacks, as proposed by the applicant, allow for a fairly reasonable and effective internal configuration of office space, minimizes any visual impacts on K Street and does not adversely impact on the light and air of the adjacent buildings.

The Board therefore concludes that the application can be granted without substantial detriment to the public good and as in harmony with the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Maps. It is therefore **ORDERED** that the application is **GRANTED**.

VOTE: 4-0 (Paula L. Jewell, Lloyd D. Smith, William F. McIntosh and Carrie L. Thornhill to **grant**; Charles R. Norris not present, not voting).

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

ATTESTED BY: 
EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: MAY 17 1991

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHT 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 ODER 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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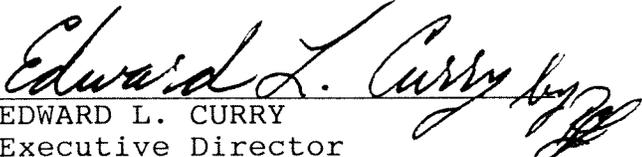
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As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a letter has been mail to all parties, dated MAY 17 1991 and mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and to is listed below:

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EDWARD L. CURRY
Executive Director

DATE: MAY 17 1991