

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15175 of Saddlebrook Development Corporation, as amended, pursuant to 11 DCMR 3108.1 and 3107.2, for a special exception under Section 2516 for the construction of two or more principal buildings or structures on a single subdivided lot, and a variance from the front yard requirements [Paragraph 2516.5(b)] for the proposed subdivision of a single lot into seven theoretical lots and the construction of seven single-family detached dwellings in an R-1-B District at premises 2960 University Terrace, N.W., (Square 1426, Lots 948 through 958 - formerly Lot 33).

HEARING DATE: October 11, 1989
DECISION DATES: November 1 and December 6, 1989

FINDINGS OF FACT:

1. The site is bounded by Loughboro Road on the north, Arizona Avenue to the west, Garfield Street to the south, and University Terrace to the east, and is known as premises 2960 University Terrace, N.W. It is zoned R-1-E. The site is currently unimproved.

2. Located in the interior of Square 1426, the site is irregularly shaped with a land area of 102,847.6 square feet. From University Terrace, a "pipe stem" runs approximately 300 feet into the oval-shaped core (approximately 90,000 square feet) of the site. At the northwest corner of the site, another "pipe stem" runs from the core west to Arizona Avenue. The site has frontage on University Terrace of 30.86 feet and on Arizona Avenue of 16.78 feet.

3. The area surrounding the site is developed exclusively with single-family detached dwellings. The adjoining properties in Square 1426 vary in size from 3,243 to 69,544 square feet. Excluding the seven properties that are larger than 20,000 square feet, the average lot size of the existing properties in Square 1426 is 8,692 square feet.

4. On August 9, 1989, applicant filed an application for a special exception and related front, side and rear yard variance relief to allow the construction of eleven single-family detached dwellings on a single subdivided lot. Subsequently, applicant amended its application and submitted a prehearing statement calling for the construction of only eight single family dwellings. At the October 11, 1989 hearing, applicant, with the approval of the Board, further

amended its application to introduce a seven unit house plan, after extensive negotiations and the entering into a written agreement with the surrounding neighbors. The seven unit plan was referred to the Zoning Administrator to determine the plans compliance with the Zoning Regulations. By memorandum received on November 7, 1989, the Zoning Administrator determined that the seven unit plan required review as a special exception under Section 2516 and a variance from front yard set back requirement of Paragraph 2516.5(b).

5. The applicant proposes to construct seven single family detached dwellings on the site and is seeking special exception and variance relief of more than one principal building on a single subdivided lot pursuant to 11 DCMR Section 2516. The applicant is requesting variances from the front yard set back requirement for Lot 1 of 1.104 and Lot 7 of 0.30 feet. The required front yard set back or open space in front of the entrance is the same as the required rear yard for the R-1-B District or twenty-five feet. In all other respects, the proposed subdivision and detached single-family dwellings comply with the requirements of the R-1-B District.

6. The site plan proposes a common ingress/egress easement or driveway coming off University Terrace for approximately 300 feet along the "pipe stem" and terminating in the interior of the site with a turn-around or cul-de-sac that is sixty feet in diameter. The focal point of the project will be a seventy inch caliper oak tree located at the core of the site. The seven houses will be clustered facing inward in an oval configuration around the oak tree. Proceeding in a clock-wise direction from the point where the ingress/egress easement enters the core of the site, the individual theoretical lots are designated sequentially from No. 1 to No. 7. Access to each house from the common ingress/egress easement will be by means of private driveways. Applicant has designed three separate model houses (A,B,C) which are designated on the site plan. Wherever possible, applicant has incorporated existing landscaping into the site plan. Applicant will also provide extensive new landscaping, particularly along the site perimeter in order to create a buffer for the surrounding houses.

7. The R-1-B District permits as a matter-of-right the construction of single-family detached dwellings. The R-1-B District establishes the following requirements: (a) minimum lot area of 5,000 square feet; (b) minimum lot width of fifty feet; (c) maximum lot occupancy of forty percent; (d) minimum rear yard of twenty-five feet; (e) minimum side yards of eight feet, and; (f) maximum height of forty feet and three stories.

8. Under 11 DCMR Section 2516, as amended by Zoning Commission Order No. 627 (July 31, 1989), additional requirements are established with respect to theoretical lot developments:

- a. Each theoretical lot is required to have open space in front of the principal entrance to the structure that is equivalent to the required rear yard in the district in which the building is located.
- b. If any part of a theoretical lot is located in common with the rear lot line of the subdivided lot it is a part, the rear yard of the theoretical lot shall be along the boundary of the subdivided lot.
- c. The area of land that forms a covenanted means of ingress or egress shall not be included in the area of any theoretical lot.
- d. Each means of vehicular ingress or egress to any principal building shall be twenty-five feet in width, but need not be paved for its entire width.
- e. A theoretical lot project that does not have at least two entrances or exits, must provide a turning area of not less than sixty feet in diameter.
- f. The theoretical lot development plan will have no adverse impact on the present character or future development of the neighborhood.

9. The seven unit plan meets the following requirements of the Zoning Regulations.

- a. The houses proposed for Lots 1-7 do not exceed the maximum height of forty feet and 3 stories permitted in an R-1-B District.
- b. Lots 1-7 exceed the minimum lot area requirement in an R-1-B District of 5,000 square feet, excluding the area of land that forms a covenanted means of ingress or egress.
- c. Lots 1-7 meet or exceed the minimum lot width requirement in an R-1-B District of fifty feet.
- d. The houses proposed for Lots 1-7 each have lot occupancy less than the forty percent maximum permitted in a R-1-B District.

- e. Lots 1-7 meet or exceed the twenty-five foot minimum rear yard requirement in an R-1-B District.
- f. Lots 1-7 meet or exceed the eight foot minimum side yard requirement in an R-1-B District.
- g. Lots 2-6 each has an open space in front of the principal entrance to the structure that is equivalent to or greater than the required twenty-five foot rear yard in an R-1-B District.
- h. For Lots 1-7, the part of each theoretical lot located in common with the rear lot line of the subdivided lot of which it is a part, is in the rear yard of each theoretical lot and is located along the boundary of the subdivided lot.
- i. The common means of vehicular ingress or egress is at least twenty-five feet in width, but not paved in its entire width.
- j. The site plan has only one entrance or exit, but provides a cul-de-sac or turning area that is sixty feet in diameter.

10. After lengthy negotiations between the applicant and the owners of the properties abutting the site, a Development Agreement was executed by the parties setting forth the terms and conditions under which the applicant will develop the site with the full support of the abutting property owners. Under the terms of the Agreement, applicant agreed to build only seven single-family detached dwellings on the site.

11. The applicant's traffic consultant testified that the site plan was appropriate from a traffic engineering viewpoint and would create no adverse traffic impact. As a worst case scenario, the traffic consultant testified that each house would generate a maximum of one peak hour trip in the morning rush hour from 8:00 - 9:00 A.M., and in the evening rush hour from 5:00 - 6:00 P.M. or a total of not more than seven vehicles leaving the site in the morning and returning in the evening. The traffic consultant also noted the following points regarding the site plan:

- a. Access and on-site circulation plans have been reviewed and approved by the D.C. Fire Department.

- b. Trash collection will be privately arranged. There would be one additional truck, with two pick-ups per week.
- c. The private roadway leading from University Terrace would be paved to a width of 24 feet.
- d. There would be four parking spaces for each house. There should be no overflow parking onto University Terrace.

Based on the traffic consultant's analysis of the site generated traffic there will be no change in the current levels of service which are well within the acceptable range as established by DPW.

12. Applicant's land use consultant testified that the site plan is appropriate. Excluding the extraordinarily large lots (over 20,000 square feet), the average consolidated lot size in Square 1426 is 8,692 square feet. By contrast, the average lot size under the site plan is over 12,400 square feet. The lot sizes proposed by applicant are both more than double the minimum size required in the R-1-B District (5,000 square feet) and are compatible with the lot sizes of the existing properties in Square 1426. Also, lot sizes in the two adjoining squares (1421 and 1423) are generally similar or smaller than applicant's proposal.

13. The house sizes in Square 1426 range from 1,000 to 4,260 square feet or an average of 3,027 square feet. Although the houses proposed by applicant (3,500-4,000 square feet) are somewhat larger than the average, they are compatible with the neighborhood. The land use consultant noted the recent completion in Square 1426 of an infill development of five substantial homes located approximately 500 feet north of the entrance to applicant's site on University Terrace. These newly constructed single-family detached houses range in size from 3,500-4,000 square feet. The site plan features houses of 2-3 stories, depending on the surrounding grade elevation, which are compatible with the prevailing pattern in the neighborhood. Finally, the land use consultant testified that applicant had successfully addressed the privacy concerns of the adjoining neighbors by orienting each of the proposed houses inward. Specifically, the front entrances of each house faces toward the center of the site, rather than into the backyards of any of the abutting neighbors.

14. The applicant's architect testified that the size, design and appearance of the three model houses proposed are compatible with the existing dwellings in the neighborhood. The architect described how the houses had been placed on each of the theoretical lots in order to maximize the buffer between the abutting neighbors created by the

rear yard of each lot, preserve the existing landscaping, including the large oak tree, and utilize the site's topography. In particular, the site was designed to incorporate the large oak trees as the focal point. The two houses immediately adjacent to the large oak tree were redesigned to minimize disturbance to the tree's root system. The height of two houses was reduced to minimize the impact on the abutting neighbors.

15. The applicant's site engineer testified that the site plan had been carefully designed to minimize any adverse impacts and be compatible with the surrounding neighborhood. In doing so, the applicant was constrained by the site's unusual size, shape and topography. The site engineer noted that each of the houses were placed on the individual theoretical lots as close to the center or core of the site as possible in order to maximize the size of the rear yard buffer created and use of the existing perimeter landscaping for screening purposes. Further, preservation of the large oak tree and its incorporation into the site plan required great attention to the positioning of the houses, and layout of the common ingress/egress easement and the individual driveways.

16. The Office of Planning (OP), by memorandum dated October 10, 1989 and by testimony presented at the public hearing, recommended approval of the construction of seven single-family detached dwellings on the site. The OP report and testimony established that the lot sizes proposed for the subject property would be generally consistent with those of the surrounding area and that the seven unit plan would be compatible with the surrounding neighborhood. OP also testified that the variances requested were minor and resulted in the provision of additional open space to surrounding properties. In recommending approval of the seven unit plan, OP concluded:

The proposed project contains much larger lots than required by the Zoning Regulations for an R-1-B District. The applicant has strived to make the property compatible with the surrounding area while providing a meritorious project.

17. The District of Columbia Department of Public Works (DPW), by memorandum dated October 6, 1989, concluded that "from a transportation perspective, we have no objection to the [8-Unit] proposal." Specifically, DPW noted no objection to the applicant's proposal to assume responsibility for maintenance of the roadway, trash and snow removal, sediment control, sanitary sewers, utilities and storm sewers for the site. DPW also concluded that the existence of four parking spaces (two garage and two outdoor spaces) for each house

"will aid in mitigating the adverse impacts of the development on the local parking supply." Finally, DPW stated that the traffic on the local street system generated by the applicant's development plan would not result in "a large adverse impact."

18. The District of Columbia Department of Recreation by memorandum dated October 6, 1989 indicated no objection to the application.

19. The District of Columbia Fire Department by memorandum dated April 6, 1989, approved the original eleven unit proposal. The seven unit proposal presents less of a fire hazard.

20. Advisory Neighborhood Commission (ANC) 3D, by letter to the Board dated October 5, 1989, supported the application subject to the following conditions:

- a. Reduce the proposed development density by one unit from seven units to six units.
- b. Reduce the serious adverse impact of the development arising from the mass of proposed units 3 and 7 because due to their height, they adversely impact the privacy characteristic of the neighborhood through an unwarranted intrusion on the privacy of the abutting properties.
- c. Incorporate in the BZA Order the following conditions:
 1. No future subdivision of any unit lot;
 2. Preclude both automotive and pedestrian ingress and egress to Arizona Avenue from the smaller of western 'pipe stem':
 3. Prohibit parking on the access road at any point;
 4. Reaffirm all existing easements specifically those related to the Towle, Marshal and Cross properties; and,
 5. Publish the landscape development plans submitted as part of the Board's order.
- d. Reduce to writing the agreement between Mr. Cross and the applicant as reached in our meeting of October 2, 1989, and include in the Board's order.
- e. Preserve the existing 72 inch "oak".

21. The applicant addressed all the ANC concerns except that of the reduction of the number of lots. The Board

finds the ANC submitted no information as to the rationale behind that condition particularly in view of the agreement with the surrounding property owners.

22. The owner of 2950 University Terrace, N.W., with counsel testified on behalf of himself and six other abutting property owners (of Lots 831, 835, 899, 903, 20, 22, 898, 931, 912, 11, 914 and 940 in Square 1426) in support of the seven unit site plan based on the terms and conditions of the Agreement between the abutting property owners and the applicant which was entered into the record as Exhibit No. 26.

23. Two property owners of 3027 and 3050 University Terrace, N.W. testified at the public hearing in opposition to the seven unit site plan. In addition to the issues and concerns raised by ANC 3D, the owners expressed the following concerns:

- a. The density of the seven unit plan would be greater than the surrounding neighborhood and that a further reduction in the number of units to four is appropriate.
- b. Site-generated traffic would be higher than the levels testified to by applicant's traffic consultant. Increased accidents and air pollution would result.
- c. University Terrace was not designed to carry the increased levels of traffic.

24. In addressing the issues and concerns of ANC 3D and those persons in opposition, the Board finds as follows:

- a. The Board finds the seven unit plan will have no adverse impact on the present character or future development of the neighborhood, and therefore no reduction in the number of houses from seven to six or four is warranted. The ANC offered no rationale or evidence as to why six units was an acceptable density and consistent with the regulations but that seven units was not. Any further reduction to four units, the Board finds to be unreasonable.
- b. The Board finds that under the terms of the Agreement with the abutting property owners, the heights of the houses on Lots 3 and 7 have been reduced in order to preserve the privacy of the abutting properties. All other items of ANC-3D's letter of October 4, 1989 are either specifically addressed in the Agreement with the abutting property owners or unnecessary based on the terms and conditions set forth in the Agreement.

- c. The Board finds that the seven unit plan will not adversely effect the local street system and that ample off-street parking is provided to serve the project. The Board further finds the project will not generate traffic, or require any services beyond those provided to the existing neighborhood.

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 a special exception and related variance relief. In order to be granted special exception relief, the applicant must demonstrate compliance with Sections 2516 and 3108 of the Zoning Regulations. Similarly, in order to be granted variance relief, the applicant must demonstrate compliance with Section 3107 of the Zoning Regulations. The Board concludes that the applicant has complied with these requirements.

The site, as a result of its location size, shape and topography, is unique. This uniqueness coupled with the effort to design a project consistent with the objectives of 11 DCMR 2516 that will be both compatible with the area and not create any adverse impact on the present character or future development of the neighborhood has produced several practical difficulties in complying with the Zoning Regulations. The Board takes note of the agreement between the applicant and abutting property owners. As a result of efforts to preserve the existing landscaping for screening purposes, incorporate the large oak tree into the site plan, and create the maximum rear yard buffer between the adjacent houses by pulling the houses inward to the center or core of the site, the two minor front yard variances are required. Based on the practical difficulties in achieving the above-referenced objectives and the unique features of the site, the Board finds that a strict application of the Zoning Regulations would create an undue hardship on the applicant. The Board concludes that the variance relief requested is minor in nature and will not have an adverse impact on the neighborhood.

The Board further concludes that the approval of the special exception and related variance relief can be granted as in harmony with the general purpose and intent of the Zoning Regulations and maps and that the use will not tend to adversely affect the use of neighboring property. The Board concludes that it has accorded to the ANC the "great weight" to which it is entitled. Accordingly, it is therefore ORDERED that the application is GRANTED subject to the CONDITION that construction shall be in accordance with the plans marked as Exhibit No. 10, as amended by Exhibits No. 28 and 29 of the record.

VOTE: 4-0 (Charles R. Norris, William F. McIntosh and Paula I. Jewell to grant; Lloyd D. Smith to grant by proxy; Carrie L. Thornhill 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:

APR 5 1990

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.

15175order/LJP60

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



APPLICATION No. 15175

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 APR 5 1990, and 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: APR 5 1990