

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15460 of the Steel Partnership, as amended, pursuant to 11 DCMR 3107.2, for a variance from the minimum lot area and width of lot requirements (Sub-section 401.3), and a variance from the side yard requirements (Sub-section 405.9) for the subdivision and construction of a single-family dwelling in an R-1-B District at premises 4909 41st Street, N.W. (Square 1757, Lot per subdivision).

HEARING DATES: February 27, 1991 and May 13, 1992
DECISION DATES: February 27, 1991, February 5, April 8,
and June 3, 1992

DISPOSITION: The Board GRANTED the application by a vote of 4-0 (Paula L. Jewell, William L. Ensign, Sheri M. Pruitt and Charles R. Norris to grant; Carrie L. Thornhill not present, not voting). The Board APPROVED a MODIFICATION of PLANS by a vote of 3-0 (Sheri M. Pruitt, and Paula L. Jewell to approve; William L. Ensign to approve by proxy; Angel F. Clarens and Carrie L. Thornhill not voting, not having heard the case).

FINAL DATE OF ORDERS: March 8, 1991 and February 28, 1992

MODIFICATION ORDER

The Board originally granted the application by its order dated March 8, 1991 subject to the condition that construction be in accordance with the revised plat marked as Exhibit No. 23 of the record. By its order dated February 28, 1992, the Board approved a modification of the originally approved plans subject to the condition that construction be in accordance with the plans marked as Exhibit No. 25A of the record.

By letter dated March 27, 1992, the applicant authorized Jon Cohen and Sarah Eilers to act on its behalf in seeking a further modification of the approved plans. On March 27, 1992, the applicant's representatives requested that the Board approve a modification to the previously approved plans. The requested modification of plans would result in a five-foot reduction in the depth of the proposed dwelling and the addition of a basement garage. The proposed addition of a basement garage would eliminate the need for a variance from the parking requirements which was previously approved by the Board.

By letter dated March 31, 1992, the Single Member District Commissioner for ANC 3E04 opposed the proposed modification of plans. The opposition is generally summarized as follows:

- a. The modified structure would not be in architectural conformance with other houses in the block due to the built-in garage, curb cut for access to the garage, and partial removal of an existing retaining wall. None of the other houses have curb cuts or garages entered from the street and the existing retaining walls are interrupted only by stairways from the sidewalk to the level of the houses.
- b. The location of the proposed curb cut is quite close to the street intersection and there is some question as to its legality and advisability from both a practical and safety standpoint.
- c. The proposed curb cut would possibly remove more than one parking space from the street, thus offsetting any advantage of an on-site parking space.

By letter dated April 6, 1992, the applicant's representative submitted a petition in support of the proposed modification of plans signed by seven adjacent or nearby neighbors; responses to the concerns expressed by the Single Member District Advisory Neighborhood Commission member; and a request for clarification from the Board of the actual approved dimensions of the side yard of the proposal.

By letter dated April 6, 1992, the Single Member District Commissioner for ANC 3E04 withdrew her previously submitted opposition to the proposed modification of plans. The Commissioner noted that the ANC had not yet addressed the merits of the proposal.

By letter dated April 6, 1992, the Chairman of ANC 3E indicated that the ANC had taken no position on the proposed modification. The matter was placed on the agenda of the ANC's scheduled meeting of April 16, 1992. The ANC Chairman requested the Board to leave the record in the case open until April 22, 1992 to provide the ANC an opportunity to review and comment on the proposed modification of plans.

At its public meeting of April 8, 1992, the Board scheduled a further hearing on the proposal limited to consideration of the applicant's proposed revisions to the architectural plans and provisions for off-street parking dated March 27, 1992, marked as Exhibit No. 28 of the record. Board Members Clarens and Bennett

were provided with copies of the record in the case to permit their participation in the further public hearing and decision on the application.

At the public hearing of May 13, 1992, the applicant testified that due to its inability to obtain financing for the project, the property was to be sold. The proposed modification of plans reflects the contract purchaser's alterations to the original proposal to make the proposed residence suitable for his purposes. The proposed modification of plans does not affect the variances with respect to minimum lot area, minimum lot width, and minimum side yard requirements as originally approved by the Board. The proposal does, however, eliminate the need for a variance from the off-street parking requirements.

The Office of Planning made no recommendation regarding the proposed modification of plans.

The Department of Public Works (DPW), by memorandum dated May 5, 1992, offered no objection to the project with respect to the proposed curb cut and driveway. The DPW noted that the rear of the property is inaccessible to vehicles because the abutting alley is unimproved. The DPW found that the proposed curb cut is sufficiently removed from the nearest intersection to avoid creating a hazardous situation. The DPW further found that the proposed 12-foot width of the driveway, in lieu of the required seven-foot minimum width, will significantly increase a driver's "cone of vision" which could be somewhat restricted when leaving the garage by the proposed 40-inch high retaining walls along the sides of the driveway. The DPW was of the opinion that the design and location of the driveway is acceptable.

Advisory Neighborhood Commission (ANC) 3E, by letter dated May 10, 1992, supported the applicant's request to the extent that the approved lot coverage and the height of the building was not increased beyond that originally approved by the Board. The ANC opposed the applicant's request to provide a curb cut for off-street garage parking. The ANC was of the opinion that the proposed curb cut is out of character with other houses in the neighborhood; will add to traffic congestion on 41st Street; and will present a safety threat to pedestrians and cars on 41st Street.

At the conclusion of the public hearing, the Board left the record open for the applicant to submit photographs and other information on the character of the streetscape, including existing curb cuts along both sides of the 4900 block of 41st Street. By submission dated May 20, 1992, the applicant's representative submitted several photos of the immediate area. The applicant's submission evidences that two driveways currently exist on the subject block and that the architectural style of the existing

residences on the block is eclectic, thereby making strong generalizations about the character of the block difficult. There were no responses to the applicant's post-hearing submission.

The Board finds that the proposed modification of plans is generally cosmetic in nature and does not result in any significant change in the project as originally approved with the exception of the proposed driveway and garage. The Board finds that based on the report of the Department of Public Works and the applicant's post-hearing submission, the proposed curb cut and garage are not inconsistent with the character of the immediate area and will not result in any dangerous or unsafe traffic impacts. The Board further finds that the proposal is more in keeping with the intent and purpose of the zone plan in that the originally approved variance from the off-street parking requirements has been eliminated.

Upon consideration of the request for modification of plans, responses thereto, the record in the application, and its final orders, the Board concludes that the proposed modification of plans is generally cosmetic in nature and does not result in any significant change in the size, shape or configuration of the project as originally approved by the Board. The project, as proposed, results in a reduction in the total variance relief originally approved. The material facts relied upon by the Board relative to the original application are still relevant. No additional zoning relief is required.

Accordingly, it is hereby **ORDERED** that the **MODIFICATION** of **PLANS** is approved and that the plans marked as Exhibit No. 28G of the record shall be substituted for those plans originally approved by the Board. In all other respects the Board's order dated March 8, 1991 shall remain in full force and effect.

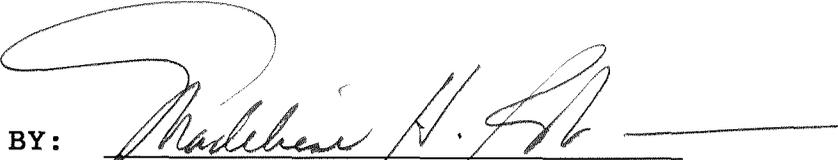
DECISION DATE: June 3, 1992

VOTE: 4-0 (Maybelle Taylor Bennett, Angel F. Clarens, Sheri M. Pruitt and Paula L. Jewell to approve; Carrie L. Thornhill not voting, not having heard the case).

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

ATTESTED BY:


MADELIENE H. ROBINSON
Acting Director

FINAL DATE OF ORDER: _____

JUL 10 1992

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.

15460Order/bhs

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 15460

As Acting Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on JUL 10 1992 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Russell Perry
4917 41st Street, N.W.
Washington, D.C. 20016

Jon Cohen
5130 Connecticut Avenue, N.W., #302
Washington, D.C. 20008

Igall Stell
Steel Partnership
3210 Wisconsin Avenue, N.W., #309
Washington, D.C. 20016

James Curtin, Chairperson
Advisory Neighborhood Commission 3-E
P.O. Box 9953
Washington, D.C. 20016

A handwritten signature in black ink, appearing to read "Madeliene H. Robinson", written over a horizontal line.

MADELIENE H. ROBINSON
Acting Director

DATE: JUL 10 1992

15460Att/bhs