

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15696, of North Capitol Neighborhood Development Corporation, as amended, pursuant to 11 DCMR 3107.2, for a variance from the lot area and width requirements (Subsection 401.3), a variance from the allowable percentage of lot occupancy requirements (Subsection 403.2), a variance from the rear yard requirements (Subsection 404.1), and a variance from the off-street parking requirements (Subsection 2101.1), for the construction of 12 row-dwellings in an R-4 District at premises, 12, 32-52 and 55 Hanover Place, N.W. (Square 617, Lots 218, 46-56 and 84).

HEARING DATES: September 6, 1992 and July 28, 1993
DECISION DATES: October 7, 1992 and July 28, 1993

DISPOSITION: The Board **GRANTED** the application by a vote of 4-0 (Sheri M. Pruitt, Paula L. Jewell, Angel F. Clarens and Carrie L. Thornhill to grant)

ORDER

On April 6, 1992, the applicant submitted to the Board an application for several area variances to allow the construction of 12 row dwellings on the subject property located on Hanover Place N.W.

The application form referred to lots 218, 46-56 and 84 in Square 617 as the property at issue. The Board's public hearing notice for the application listed the property as it appeared on the application form and on the memorandum from the Zoning Administrator dated December 24, 1991. The public hearing was scheduled for September 16, 1992.

At the public hearing, one witness expressed opposition to the application because it included Lot 51, a lot which he owned, rather than the applicant.

At the public meeting on October 7, 1992, the Board amended the application to exclude Lot 51 and granted the applicant's request with regard to all remaining lots. No final order was issued pursuant to this approval.

By letter dated May 14, 1993, the applicant requested a further hearing with regard to Lot 51. The applicant stated that the original application erroneously included Lot 51, and that the only opposition at the hearing was that of the owner of that lot. The applicant stated that subsequent to the public hearing, North Capitol Neighborhood Development Corporation purchased Lot 51 from the owner. The applicant stated that it would now like to include Lot 51 in the townhouse project.

At its public meeting of July 7, 1993, the Board acted on the applicant's request. Pursuant to 11 DCMR 330.2, the Board, on its own motion reopened the record and authorized a further hearing on the application limited to the issue of including Lot 51 in the application. The Board sent notice of the further hearing to all parties to the original application. The further hearing was scheduled for July 28, 1993.

As directed by 11 DCMR 3324.2, the Board required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for a variance from the strict application of the requirements of 11 DCMR 401.3, 403.2, 404.1 and 2101.1. At the further hearing, the applicant testified that it still intends to build only 12 town-houses, and not increase the density or number of units previously approved. However, the applicant stated that it would like to group all 12 houses together and use the extra property at the end of the row as open space.

No person or entity appeared at the further public hearing in opposition to the amended application or otherwise requested to participate as a party in this proceeding. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, the Board concludes that the applicant has met the burden of proof pursuant to 11 DCMR 3107. The applicant has demonstrated that exceptional situations or conditions exist about the property which create a practical difficulty for the owner, in efforts to comply with the requirements of the Zoning Regulations. The applicant has also demonstrated that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. It is therefore ORDERED that the application is GRANTED.

Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.1 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case.

VOTE: 4-0 (Carrie L. Thornhill, Paula L. Jewell, William L. Ensign and Angel F. Clarens to grant; Sheri M. Pruitt not present, not voting).

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

ATTESTED BY:


MADELIENE H. ROBINSON
Director

FINAL DATE OF ORDER: _____

AUG 19 1993

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, 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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GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 15696

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on AUG 19 1993 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:

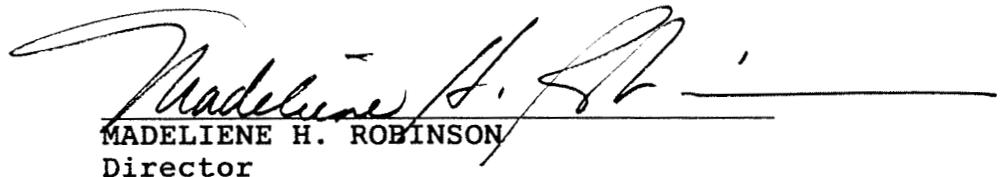
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MADELIENE H. ROBINSON
Director

DATE: AUG 19 1993