

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15801 of Dr. Ippolito-Shepherd, pursuant to 11 DCMR 3107.2, for a variance from the location of parking requirements (Subsection 2116.2), and a variance from the size of parking space requirements (Subsection 2115.1) for construction of a parking pad in the front yard of a semi-detached single-family dwelling in an R-2 District at premises 3007 Ordway Street, N.W. (Square 2067, Lot 74).

HEARING DATE: January 27, 1993
DECISION DATE: February 3, 1993

ORDER

SUMMARY OF EVIDENCE OF RECORD:

1. The property which is the subject of this application is located on the north side of Ordway Street, N.W., between 30th Street and Ashley Terrace. The property consists of one lot of record (Lot 74) which contains 3,374 square feet of land area.

2. The site is improved with a two-story plus basement single-family, semi-detached dwelling. The property's rear yard slopes steeply away from the dwelling from south to north. A four-foot wide side yard is located on the west side of the dwelling. A 15-foot wide unpaved public alley abuts the site to the north and rear.

3. The area surrounding the site is characterized by single-family detached, semi-detached and row dwellings. Several apartment buildings are also interspersed throughout the neighborhood. Connecticut Avenue N.W. is located approximately one block to the east of Ordway Street. The site is also located within the Cleveland Park Historic District and is approximately one and one-half blocks west of the Cleveland Park Metrorail Station. Additionally, it is located within the boundaries of the Zone 3 of the D.C. Residential Parking Permit Program.

4. The applicant is proposing to construct a parking pad in the front of the subject property. The parking space would measure 9 feet by 14.5 feet, and would be large enough for one small or medium size car.

5. The subject property is located in the R-2 District which permits matter of right development of single-family detached and semi-detached dwellings with a minimum lot area of 3,000 square feet, a minimum lot width of 30 feet, a maximum lot occupancy of 40 percent, and a maximum height of three stories/40 feet. A parking

pad is not permitted in the front yard of a residential property in an R-2 zone district. Further, parking spaces are required to measure 9 feet by 19 feet.

6. The applicant is requesting a variance from 11 DCMR 2116.2 which requires the parking space to be located in the side or rear yard. She is also requesting a variance from Subsection 2115.1 which sets forth the minimum measurements for a standard parking space.

7. The applicant testified that she arrives home from work late and often finds it difficult to park in front of or near her house. She stated that parking conditions in the area are poor. The applicant stated that for health reasons she cannot walk very far from her car to her house. Furthermore, parking far away from the house is not safe.

8. The applicant stated that the size and topography of her lot create a practical difficulty for her in complying with the Zoning Regulations. She stated that the side of the lot is exceptionally narrow and it is shaped in such a manner that it does not allow for construction of a parking space (a) "within a permitted garage or carport", or (b) "on an open area ... within a rear yard or within a side yard " She stated that this situation creates an unnecessary hardship and practical difficulties that uniquely affect her property.

The applicant stated that although an alley runs along the rear of her property, there is a steep slope in the back yard which makes construction of a rear garage or parking space impractical, and extremely difficult. Further, access to her lot from the alley, in the back of the property, is not possible because of the steep slope of the land. The applicant stated that to use the rear of her lot would require extensive excavation and the addition of stairs to the house. For health reasons, she cannot easily traverse stairs for access to her home.

9. The applicant stated that there are three other properties close-by that also have steep slopes at the rear.

10. The applicant stated that the District of Columbia laws prohibit her from keeping her car parked in one on-street space for more than 72 hours at a time. Because she travels extensively for her work, sometimes she leaves her car in one place for two to three weeks at a time, in violation of the law.

11. The applicant stated that the parking pad will be paved with brick and landscaped extensively. She believes that it will beautify her home and increase its value. Also, the parking pad will be aesthetically pleasing to others who see it.

12. The applicant stated that locating the parking pad in front of her property will not impair the normal functioning of the neighborhood. The space required to enter the proposed parking pad would be equivalent to one parking space - the space she would use if she could find parking in front of her house.

13. The applicant stated that there are other properties in Cleveland Park with similar parking areas in front of the houses. These include 3045 Ordway Street and 3314 Ordway Street which are located very close to the subject property. Other properties with similar parking pads are located at 2922, 2968 and 3122 Norton Street, N.W. - a street parallel to Ordway. Unlike the parking pad proposed, these driveways and parking pads are made of concrete and there is no landscaping around them.

14. The applicant stated that she has the support of her next door neighbors and other neighbors on the street. The applicant believes that the proposed use will be in harmony with the general purpose and intent of the Zoning Regulations and that it will not be of substantial detriment to the public.

15. By memorandum dated January 19, 1993, the Office of Planning (OP) recommended denial of the application. OP noted the location of the property and the proposed use. OP stated that many of the adjacent and nearby properties have steeply sloping rear and side yards. Therefore, the property is not unique and there is no exceptional situation or condition inherent in the property which would justify approval of this application. OP is of the opinion that there is no practical difficulty for the applicant in this case.

OP stated that approval of this application would require that a curb-cut be provided on Ordway Street, thus eliminating an on-street parking space. Furthermore, the construction of a parking pad and driveway within the limited confines of the front yard in question would negatively impact the aesthetic quality of the property, adjacent properties, and the overall character of the Cleveland Park Historic District. For these reasons, the Office of Planning believes that the proposal would cause substantial adverse area impacts and would severely impair the intent, purpose, and integrity of the R-2 zone district regulations relative to the location of on-site parking spaces. OP also believes that the proposal would not be in harmony with the guidelines established for the Cleveland Park Historic District.

OP stated that although a substantial amount of excavation work would be needed, the applicant could provide a parking pad at the rear of the property with access through the alley as a matter of right.

Finally, OP stated that granting the application would cause substantial adverse area impacts and would impair the intent, purpose, and integrity of both the R-2 zone district and the Cleveland Park Historic District regulations. Accordingly, the Office of Planning recommended denial of this application.

16. By letter dated December 22, 1992, Advisory Neighborhood Commission (ANC) 3C resolved to oppose the subject application. ANC 3C also submitted a report dated January 14, 1993 reiterating its opposition and expressing its concerns about the variance request. The ANC stated that the neighborhood parking problems, the house, its site, topography of the area (sloping down from Ordway to Porter Street) are not uncommon neighborhood characteristics. Many area residence could make statements about these features similar to those made by the applicant. There is no uniqueness inherent in the applicant's property that would warrant variance relief.

The ANC stated that the applicant's parking needs may present some difficulty, but in the view of ANC 3C, this parking "difficulty" is not the same as the practical difficulty contemplated within the meaning of the Zoning Regulations. The applicant has full use of her house, as did her predecessors. Her ability to use her property is similar to that of many of her neighbors. There is no practical difficulty.

Finally, the point that most concerns ANC 3C is that there are no front yard parking pads for any of the houses in the greater vicinity of 3007 Ordway Street. The granting of this variance request would indeed impair the zone plan by creating a wholly different front yard use in this R-2 neighborhood.

No one from ANC 3C appeared at the hearing to testify in the application.

17. On January 27, 1993, the Board received a staff report and recommendation from the Historic Preservation Review Board (HPRB). The report stated that the applicant proposes to create a curb cut and construct a parking space for a two-story brick Colonial Revival style duplex constructed in 1927. The house is one of a cluster of about a half dozen such houses located a block from Connecticut Avenue, N.W. The houses are typical of the eclectic styles popular in the 1920s, and contribute to the character of the Cleveland Park Historic District.

The applicant proposes a brick-paved parking space in the front yard of the house. An existing ornamental maple would be preserved, and the applicant would add completely new landscaping in the front yard.

On-street parking at this location is typically congested. An alley runs along the rear of the property, but there is a steep slope in the back yard which makes construction of a rear garage or parking space impractical.

While sympathetic to concerns about safety, inconvenience, and practical difficulty, the HPRB staff has consistently recommended against conversion of front yards to parking in the historic districts, especially where the traditional pattern of front porches and landscaped yards is visually distinctive.

The proposed alteration would result in vehicular parking directly in front of the shared porch which is a distinguishing feature of this duplex house. It could also create a precedent for similar alterations to adjacent properties.

Finally, the HPRB report stated that the proposed alteration is not compatible with the character of the historic district, and the HPRB staff recommends against its approval.

18. No one appeared at the public hearing to testify as a neighbor in support of the application.

19. One neighbor residing at 3002 Ordway Street, N.W. submitted a letter and testified in opposition to the application. He stated that he lives across the street from the applicant and that four families who live across the street from the applicant also oppose the application. The opposing neighbor stated that when he and the occupants of his house look out of their front door, they would see the proposed parking pad.

He stated that the construction of a parking pad in front of 3007 Ordway Street would be out of character for the neighborhood and could reduce the value of his property. There are no similar parking pads elsewhere in front of other houses on nearby parts of Ordway Street. While several houses have driveways, these lead to parking places and/or garages on the sides of houses, not in front of them. All houses have either gardens or lawns in front of them. While he believed that the applicants drawings were beautiful, he felt that a parking pad would be unattractive both in the context of 3007 Ordway Street and nearby houses, no matter how well landscaped the area is.

The opposing neighbor stated that the proposed parking pad would appear to be totally unnecessary. While it may be difficult to find a parking space close to one's house, there is adequate on-street parking in the area. He stated that he never has to walk more than a block to get to his house.

The witness stated that construction of a parking pad would require access from the street, thus eliminating at least one on-street parking place. While the parking pad would benefit the applicant, it would be detrimental to other residents because of the reduction in available parking.

With regard to the "72-hour rule", which requires that cars be moved every 72 hours, the witness testified that generally the police will not ticket cars with Zone 3 stickers. He stated that both he and his wife travel often and they have not had a problem leaving their car on the street.

The opposing neighbor testified that cars have been vandalized in the area but this is not unique to Ordway Street. The witness testified that Ordway Street does not have any major problems with personal crime (against people walking late at night, etc.) He pointed out that there are other working women who live across the street from the applicant, indicating that the applicant is not the only woman in the area who works out of the home.

Finally, the opposing neighbor agreed that the parking space at the rear of the applicant's site is unusable, that he would not park there either because it is a terrible place. He stated that while the rear of her property slopes steeply, this condition is not unique. The house next door has the same problem. If the parking pad is approved for this applicant, what basis would the Board have for denying the parking pad for the other properties? He stated that nothing has changed about the condition of the property since the applicant purchased it. The lay out is the same. Therefore, the opposing neighbor believes that the application should be denied.

20. The Board received letters in support of and in opposition to the application.

CONTESTED ISSUES:

The contested issues of fact raised in this application are:

1. Whether the layout and topography of the subject property are similar to those other properties in the area.
2. Whether the proposed parking pad is similar to other "parking spaces" on other properties in the vicinity of site.
3. Whether the parking pad proposed will have a negative visual impact on the Cleveland Park Historic District.

The Board makes no findings or conclusions about whether or not the area is safe; what impact the applicant's health has on her ability to park on the street and walk long distances to her house;

or the applicant's ability to traverse stairs from the parking pad at the rear of her property to her house. These matters are not proper for consideration by this Board in such applications.

FINDINGS OF FACT:

Based on the evidence of record the Board finds as follows:

1. The topography and layout of the subject property is similar to that of nearby and adjacent properties.

2. The proposed parking pad would be located directly in front of the house while most other private driveways and parking areas in the vicinity are located, to some degree, to one side of the front yard, leaving a portion of the front yard open.

3. The location of a parking pad directly in front of a residence would have a negative visual impact on the Cleveland Park Historic District.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and evidence of record the Board concludes that the applicant is seeking variances to locate a substandard size parking space in the front yard of her property located in an R-2 District. Granting such variances requires a showing through substantial evidence of a practical difficulty upon the owner arising out of some unique or exceptional condition of the property such as exceptional narrowness, shallowness, shape or topographical conditions. The Board further must find that the application will not be of substantial detriment to the public good and will not substantially impair the intent, purpose and integrity of the zone plan.

The Board concludes that the applicant has not met the burden of proof. The Board concludes that the property is not unique, that other properties nearby slope steeply at the rear and have narrow side yards.

The Board concludes that the elimination of one on-street parking space will be of substantial detriment to the public good.

Finally the Board concludes that the location of a parking pad in front of the applicant's house will substantially impair the intent, purpose and integrity of the zone plan for the R-2 District.

Having failed to meet the requirements of 11 DCMR 3307.1(c), (d), and (g) the report of ANC 3C has not been accorded "great weight" by the Board.

BZA APPLICATION NO. 15801
PAGE NO. 8

In light of the foregoing, the Board hereby **ORDERS** that the application is **DENIED**.

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

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

ATTESTED BY: 
MADELIENE H. ROBINSON
Director

FINAL DATE OF ORDER: NOV 18 1993

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."

15801Order/TWR/bhs

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



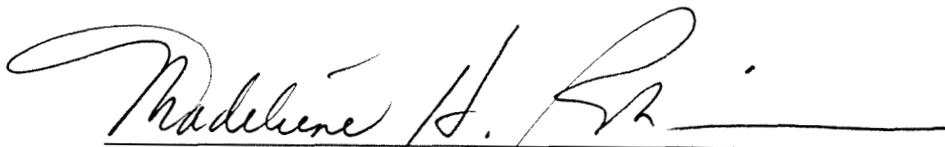
BZA APPLICATION NO. 15801

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on NOV 18 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:

Dr. Ippolito-Shepherd
3007 Ordway Street, N.W.
Washington, D.C. 20008

Mr. Peter Lande
3002 Ordway Street, N.W.
Washington, D.C. 20008

Patricia Wamsley, Chairperson
Advisory Neighborhood Commission 3C
2737 Devonshire Place, N.W.
Washington, D.C. 20008


MADELIENE H. ROBINSON
Director

DATE: NOV 18 1993

15801Att/bhs