

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15813 of Corlis Y. Randolph, pursuant to 11 DCMR 3107.2, for a variance from the off-street parking requirements (Subsection 2101.1) to allow a mental health/outpatient clinic on the first and second floors in an R-4 District at premises 823 12th Street, N.E. (Square 1003, Lot 129).

HEARING DATE: May 12, 1993
DECISION DATE: June 2, 1993

ORDER

SUMMARY OF EVIDENCE:

1. The property which is the subject of this application is located at premises 823 12th Street, N.W. (Square 1003, Lot 129). The property is zoned R-4.

2. The subject lot contains 526.5 square feet of land area. It is improved with a two-story, brick, row dwelling containing approximately 875 gross square feet of floor space. The lot is 23 feet wide, 40.5 feet deep and has a small rear yard containing 110.2 square feet of land area. The site does not directly abut a public alley; however, a 10-foot wide alley is accessible through a walkway easement at the rear of the property.

3. The area surrounding the site is characterized by residential row dwelling development. The H Street N.E. commercial corridor is located one and one-half blocks to the south along 12th Street N.E. The site is located in an R-4 zone district. The R-4 District permits matter of right development of residential uses, including detached, semi-detached and row single-family dwellings and flats, with a minimum lot area of 1,800 square feet, a minimum lot width of 18 feet, and a height limit of three stories/40 feet.

4. The applicant proposes to establish a mental health clinic at the subject site. A mental health clinic is permitted as a matter of right in an R-4 District under Subsection 350.5(g) of 11 DCMR. However, the applicant is requesting a variance from the off-street parking requirements established for this type of facility.

5. The applicant testified that the rear of the lot is too small for the construction of a parking pad. Further, there would be no way to access the property from the alley. She stated that the front of her property only measures 10 feet deep by 13 feet wide. This is inadequate space for a 9-foot by 19-foot parking pad.

6. The applicant testified that she currently resides at the subject site but plans to live nearby, possibly next door, once the facility opens. She stated that she anticipated a maximum of six people at the site at any one time. There will be no more than three staff members who will likely remain at the site for approximately four or five hours at a time. She anticipates that no more than three clients will visit the clinic per hour. This estimate is based upon the amount of space available for treatment.

7. The applicant testified that she is unaware of exactly how the staff will travel to the facility. She stated that both the metrorail system and bus routes are very accessible, and that she will encourage the use of public transportation. She acknowledged the problem with finding parking spaces in the area. She stated that parking is inconvenient for employees in the District of Columbia generally. She noted that there are commercial parking lots located in the vicinity of the site that can be used by the staff and others. In her view, it is not unreasonable for the staff to use any of the available transportation options. She stated that staff will be apprised of the rules governing parking on the street.

8. The applicant testified that agencies, primarily the Department of Human Services, Child Family Division, will refer clients to the facility. While she could not testify that all clients will come from Ward 6, it is likely that a large number will be Ward 6 residents. However, clients generally will be referred from all over the city.

9. By report dated May 5, 1993, and through testimony at the hearing, the Office of Planning (OP) recommended approval of the application. OP noted that pursuant to 11 DCMR 2101.1, one parking space would be required at the site for the proposed use. OP noted that the subject structure was originally built as a single-family row dwelling occupying approximately 79 percent of the lot. A small rear yard containing 110.2 square feet of land area occupies the easternmost portion of the property and does not have direct vehicular access to the nearest public alley located to the north of the site. The structure abuts row dwellings on both sides (north and south). Because of these conditions, on-site parking cannot be provided.

For these reasons, the Office of Planning is of the opinion that the applicant is faced with an exceptional situation which is inherent in the property itself that does not allow the provision of any on-site parking. Because of the way in which the property was developed prior to the enactment of the Zoning Regulations, an area variance would be required for any matter of right use that requires the provision of on-site parking. In addition, even if the property's rear yard had vehicular access, no parking could be accommodated within its confines because of its small size

(110.2 square feet) and its L-shaped configuration. The Office of Planning believes that the proposal can be granted without substantial adverse neighborhood impacts and without impairing the intent, purpose, and integrity of the R-4 zone district regulations.

10. Advisory Neighborhood Commission (ANC) 6A, which is automatically a party to the application, did not submit a written statement related to the application.

11. Three neighbors appeared at the public hearing to testify in opposition to the subject application.

One neighbor who resides at 828 12th Street, N.E., expressed a concern about the safety of the clients who may take public transportation to and from the facility. She believed that the applicant would need to provide for their safety as they moved about in the community.

Responding to this issue the applicant stated that people who need mental health care are usually not distinguishable in any physical sense from other people. Generally, they do not require any more protection by the government or other entities than anyone else. The applicant further stated that the program currently does not include programs for mentally retarded persons.

This neighbor expressed a concern about the current volume of traffic in the area, even without the clinic. She stated that there is a fish store located on the corner of 12th and H Streets, and the congestion from this store spills over into the residential streets creating critical parking problems for the residents even though there is residential permit parking restrictions. She stated that they have problems getting the District government to enforce the parking restrictions in their area. She is concerned that the clinic will increase traffic in an already overcrowded area.

12. Another neighbor, residing at 826 12th Street, N.E. testified that her basic concern is the parking issue because there is currently a shortage of parking. In describing the area, she stated that there is a drug rehabilitation center at 12th and H Streets. There is also Horace and Dickie's (the fish store). On the other end near K Street, there is a real estate office and a beauty shop. Consequently, there is a shortage of parking.

She stated that she arrives home at 3:30 p.m. and most of her neighbors arrive between 3:30 p.m. and 5:00 p.m., and they all have difficulty finding parking spaces. She stated that clients who visit the proposed facility will take whatever spaces are available, leaving even fewer for area residents, especially if the clinic is open until 7:00 p.m.

She stated that she pays yearly for her zone parking sticker but cannot park her car, and that the community has difficulty getting the illegally-parked cars ticketed.

13. The last witness to testify in opposition to the application resides at 1126 I Street, N.E. She indicated that there is already a parking problem in the area. She stated that she does not arrive home until 6:00 p.m., and she finds it difficult to park close to her home. She stated that it would be helpful to the residents if the clinic's closing hour could be 6:00 p.m.

14. Responding to the neighbors' concerns, the applicant stated that she would consider as much as possible some of the issues raised by the opposing witnesses. Particularly, she would try to ensure that none of the staff will tie up parking unlawfully.

She stated that she would be as cooperative as possible in dealing with the problems in the community. She believes, however, that her efforts with regard to the mental health clinic will make more of a positive statement than a negative impact.

FINDINGS OF FACT:

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

1. The subject property is too small to provide off-street parking as required.
2. There is no vehicular access from the public alley to the subject property. The public alley does not abut the subject property.
3. The mental health clinic is permitted as a matter of right.
4. Any use of the subject property will require parking variance relief.
5. Parking spaces are scarce in the area of the subject site.
6. If the parking space could be provided by the applicant, it would not alleviate the parking problems faced by the community.
7. The Board cannot place conditions on the use of the property.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of facts and evidence of record, the Board concludes that the applicant is seeking a variance from the off-street parking requirements to establish a mental health/outpatient clinic in an R-4 District. Granting such a variance requires a showing through substantial evidence of a practical difficulty upon the property owner arising out of some unique or exceptional condition of the property such as exceptional narrowness, shallowness, shape or topographical condition. Further, the Board 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 small size and the location of the property away from the public alley are exceptional conditions which create a practical difficulty for the owner in meeting the off-street parking requirements of the Zoning Regulations. The Board concludes further that a parking variance would be needed for any permitted use requiring off-street parking.

The Board notes that the applicant is only required to provide one parking space. It is the Board's view that if this space could be provided, it would not, in any meaningful way, alleviate the parking problems described at the public hearing. Therefore, the Board concludes that to grant the variance and allow the use without the one parking space would not be of substantial detriment to the public good.

The Board concludes that to deny the application would, in effect, deny the owner the right to use the property in a manner permitted as a matter of right by the Zoning Regulations. It is therefore the opinion of the Board that to grant the application and allow the permitted use will not substantially impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Based on the foregoing analysis, the Board **ORDERS** that the application is hereby **GRANTED**.

VOTE: 3-0 (Paula L. Jewell, Maybelle Taylor Bennett and Angel F. Clarens to grant; Carrie L. Thornhill not present, not voting).

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BZA APPLICATION NO. 15813

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:

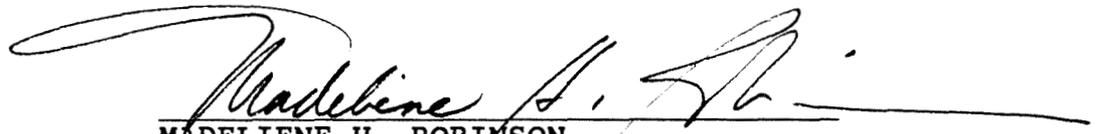
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MADELIENE H. ROBINSON
Director

DATE: AUG 19 1993