

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 16163 of Curtis Properties, Inc., as amended, pursuant to 11 DCMR 3107.2 and 3108.1, for a variance from the off-street parking requirements (Subsection 2101.1), a variance from the floor area ratio limitation (Subsection 841.1), a variance from the height and number of stories limitation (Subsection 840.1), a variance from the loading platform and service delivery space requirements (Subsection 2201.1) and a special exception under Subsection 2116.5 to locate open accessory parking elsewhere than on the lot where the principal structure is located, for an addition to an existing office building in a C-3-A/C-M-1 District at premises 2041 Martin Luther King Jr. Avenue, S.E. (Square 5772, Lot 1019).

HEARING DATE: October 16, 1996; November 20, 1996

DECISION DATE: December 4, 1996

ORDER

1. The property which is the subject of this application is known as 2041 Martin Luther King, Jr. Avenue, S.E. It is located on the northwest corner of Martin Luther King, Jr. Avenue, S.E. and V Street, S.E. The property is bounded on the west by Shannon Place, S.E. and on the north by a 20-foot wide public alley and a two-story commercial building.

2. The lot is irregular in shape and improved with an office/retail complex and a 27-space open accessory parking lot. The office/retail complex, known as the Anacostia Professional Building, contains renovated space that was constructed in several phases. The complex has a total gross floor area of approximately 64,000 square feet and consists of seven integrated building components that range in height from 14 feet to 50 feet, and one to four stories.

3. North of the lot are five two-story commercial buildings, a vacant lot, a used car sales lot, and a one-story light industrial/commercial building. West of the lot, across Shannon Place, S.E. is a one-story light industrial/commercial building. East of the lot, across Martin Luther King, Jr. Avenue, S.E., is a new four-story office building. South of the lot, across V Street, S.E., is a renovated four-story office building.

4. The lot is split-zoned, with the eastern 59 percent in a C-3-A District and the western 41 percent in a C-M-1 District. The C-3-A District permits matter-of-right development for major retail and office uses to a maximum height of 65 feet, a maximum floor area ratio (FAR) of 4.0 for residential and 2.5 for other permitted uses and a maximum lot occupancy of 75 percent for

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residential uses. The C-M-1 District permits development of low bulk commercial and light manufacturing uses to a maximum FAR of 3.0 and a maximum height of three stories/40 feet, with new residential uses prohibited.

5. The applicant proposes to construct an addition to an office/retail complex to provide space for the offices of the U.S. Social Security Administration and other office use tenants. The proposed addition will be an integral component of the existing complex which contains approximately 64,000 square feet of gross floor area. It will be accessible via the main entrance of the office/retail complex and the main lobby elevator, and will share existing building systems for electricity, domestic water, and fire protection. The proposed addition has a footprint of 10,400 square feet and contains 36,700 square feet of gross floor area and 4,000 square feet of cellar floor area. It includes a first floor parking garage for 19 vehicles (including two spaces for handicapped drivers) and three floors of open office space. Nine open accessory parking spaces, a loading platform, and service delivery area will be provided on the property and seven open accessory parking spaces will be provided in an existing parking lot located approximately 200 feet (one block) south of the office/retail complex.

6. The applicant is requesting variances from the parking, floor area ratio, and height and number of story limitations of the Zoning Regulations and a special exception to permit off-site parking. The Chief of the Zoning Review Branch, by memorandum dated October 30, 1996, determined that a variance from the loading platform and service delivery space requirements is no longer needed.

7. The applicant testified that approval of the application will allow the construction of office space for the U.S. Social Security Administration and other office users that are important to the city and community. He also testified that he was aware of a general lack of parking in the area and would provide the total number of parking spaces required by the Zoning Regulations by providing 29 spaces on-site and seven spaces in a lot owned by Curtis Properties, Inc. located one block to the south.

8. The Project Architect offered testimony to the fact that the proposed addition and existing office/retail complex is one building and that the development of additional underground parking on the lot is not feasible because of the size, shape and slope of the lot and the presence of subsurface water. He also testified that the height of the addition is 32 feet 9 inches if measured from the middle of the front of the building which is located on Martin Luther King, Jr. Avenue, S.E.; that there was only one curb cut on Shannon Place, S.E.; and that the stairway penthouse was setback from Shannon Place, S.E. by at least 30 feet.

9. The Project Consultant/Planner, testified that the applicant was faced with a practical difficulty in trying to comply with the off-street parking requirements. He stated that the applicant had three options: (1) remove 5,600 square feet of gross floor area from the proposed addition (one space per 800 square feet), (2) eliminate an entire floor, or (3)

construct underground parking on the footprint of the proposed addition. He stated that options (1) and (2) were economically unfeasible and that option (3) presented a practical difficulty because the footprint of the proposed addition is small and narrow (80' x 110') and that only a small number of parking spaces could be provided on each level of the garage in order to accommodate the vehicle lanes and ramps. In addition, he stated that it is impractical to construct underground parking because of subsurface water and poor soil conditions.

10. The Project Consultant/Planner, testified that the applicant was faced with a practical difficulty in trying to comply with the floor area limitation of the C-M-1 portion of the lot. He testified that because of the split-zoning, the applicant would have to limit the proposed addition to one story of parking and two stories of office use which would render the proposed addition economically unfeasible. He testified that a more practical approach would be to limit the entire building to the total aggregate FAR allowed by the C-M-1 and C-3-A districts which is 137,487 square feet or 26,869 square feet more than the applicant's proposal.

11. The Project Consultant/Planner, testified that a practical difficulty exists in trying to comply with the height and number of stories limitation in the C-M-1 portion of the lot. He stated that a variance was needed to offset the C-M-1/C-3-A split zoning on the property and that a more practical approach would be to apply the C-3-A requirement to the entire building which would eliminate the need for a variance from the C-M-1 requirement. The Project Consultant/Planner also testified that the Zoning Regulations locate the height of building measuring points at the middle of the front of the building and that the proposed addition measures 32 feet 9 inches in height on Martin Luther King, Jr. Avenue S.E. which is 7 feet 3 inches less than the 40-foot height limit in the C-M-1 zone.

12. The Project Consultant/Planner, testified that the applicant was seeking a special exception to provide seven accessory parking spaces for employee parking on a nearby open accessory parking lot owned by the applicant (the parking lot currently has space for approximately 200 vehicles). He stated that the open accessory parking spaces would be located in Square 5785 which is approximately 200 feet (1 block) south of the office/retail complex and would be provided for as long as the addition exists. The Project Consultant/Planner also stated that locating the seven parking spaces on this lot would result in more efficient use of the lot upon which the addition is located and would provide reasonable and convenient parking facilities for the occupants of the addition.

13. The Project Consultant/Planner, testified that the variances and special exception being sought would not be detrimental to the public good, would not impair the purpose and intent of the Zoning Regulations and Map, and would not affect adversely the use of neighboring property. He stated that the proposed addition would be visible only from the rear and would be consistent with the height and architecture of the existing building. He stated that the majority (81 percent) of the required on-site parking would be provided and the proposed addition would be part of a building that is adjacent to a major Metrobus route and within walking distance of the Anacostia

Metrorail Station. He stated that the proposed addition would provide jobs and business opportunities for local citizens and add to the District's tax base. He stated that it would also provide space for needed community services.

14. The D.C. Office of Planning (OP) testified that the site is split-zoned, slopes steeply downward from the east to west, is irregularly-shaped, and is partly developed with a three-story building which for structural reasons cannot be increased in height. OP stated that if the measuring point were determined from Martin Luther King Jr. Avenue, S.E., with the exception of the parking variance, remaining variances would not be required. OP also stated that if the application is approved, the intent, purpose, and integrity of the Zoning Regulations would not be impaired and that no adverse area impacts are anticipated regarding parking or traffic. OP recommended approval with the condition that the applicant provide the additional required parking off-site.

15. The record contains letters of support from Providence Hospital, United Health Services, Covenant House, Anacostia Economic Development Corporation, the law offices of Othello Jones, Jr., Anacostia Business and Professional Association, Family and Medical Counseling Services, Anacostia Coordinating Council, the ANC Commissioner for SMD 6C-05, and Ward 6 Councilmember Harold Brazil.

16. A tenant at 2041 Martin Luther King, Jr. Avenue, S.E., testified in opposition to the application. He argued that the proposed addition would add to an existing parking problem in the area and also stated that he was in opposition to the addition even if all the required parking spaces are provided because it would not be enough to satisfy demand.

FINDINGS OF FACT:

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

1. The irregular shape, steep slope, and split-zoning of the lot is a unique condition for the subject property.
2. The construction of additional parking on the lot is not practical because the lot is fully occupied and an underground parking garage is a practical difficulty because the footprint of the proposed addition is small and narrow and subsurface conditions are poor.
3. With the proposed addition, the building will not exceed the matter-of-right FAR for the entire lot.
4. The proposed addition will not exceed the height and number of story limitation of the C-M-1 or the C-3-A districts if the measuring point is the middle of the front of the building located on Martin Luther King, Jr. Avenue, S.E.

5. Locating seven accessory parking spaces for employee parking on a nearby open accessory parking lot that is owned by the applicant will result in more efficient use of the lot upon which the addition is located and will provide reasonable and convenient parking facilities for those employed in the addition.
6. The applicant cannot make reasonable use of the footprint of the proposed addition for office use without zoning relief.
7. The proposed building addition and off-site parking spaces will not adversely impact the surrounding area.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and evidence of the record, the Board concludes that Curtis Properties, pursuant to 11 DCMR 3107.2 and 3108.1 is seeking the following: area variances from the off-street parking requirements (Subsection 2102.1), floor area ratio limitation (Subsection 841.1), and height and number of story limitation (Subsection 840.1) of the Zoning Regulations and a special exception under Subsection 2116.5 to locate open accessory parking elsewhere than on the lot where the principal structure is located, for an addition to an existing office building in a C-3-A/C-M-1 District at premises 2041 Martin Luther King Jr. Avenue, S.E. (Square 5772, Lot 1019).

The granting of the 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 granting of the special exception requires a showing of substantial evidence that the locating of open accessory parking elsewhere than on the lot the principal structure is located on will be in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to affect adversely the use of neighboring property.

For the requested variances, the Board concludes that the applicant has met the burden of proof. The Board is of the opinion that the applicant faces a practical difficulty as a result of the shape, steep slope and split-zoning of the lot. The Board is of the opinion that granting the area variances will not be of substantial detriment to the public good, nor will it substantially impair the intent, purpose and integrity of the zone plan for the C-3-A and C-M-1 districts.

For the requested special exception, the Board concludes that the applicant has met the requisite burden of proof as evidenced in the fact that the seven accessory parking spaces will be located one-block south of the addition without adverse effects on neighboring property.

The Board concludes that it has accorded the ANC 7C the consideration to which they are entitled.

Accordingly, the Board hereby ORDERS that the application be GRANTED SUBJECT to the following CONDITIONS:

1. The open accessory parking spaces shall be located on Square 5785 or no further than one block away (approximately 200 feet) and the seven parking spaces shall be provided for as long as the proposed addition exists. The applicant shall designate these spaces for employee use only and the spaces shall be conveniently located.
2. The applicant shall not exceed the total aggregate matter of right floor area ratio for both lots.

VOTE: 4-0 (Susan Morgan Hinton, Jerrily R. Kress, Sheila Cross Reid, Laura M. Richards to grant; Angel F. Clarens, not voting.)

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

ATTESTED BY


MADELIENE H. DOBBINS
Director

FINAL DATE OF ORDER JAN 30 1997

PURSUANT TO THE D.C. CODE SEC. 1-231 (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 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 AS AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.