

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 16386 of **Harry E. Harris**, as amended, pursuant to 11 DCMR 3108.1, for a special exception under Section 2516 to allow the construction of a single-family dwelling on a theoretical lot, and further relief pursuant to 11 DCMR 3107.2 for a variance from Subsection 2516.5 (b), the requirement that the front of the building be the side upon which the principal entrance is located, and a variance from Subsection 2516.6 (a), the requirement that the land used for covenanted means of ingress or egress not be included in the theoretical lot or in any required yard, for property located in an R-1-A District at premises located at 2607 Klinge Road, N.W. (Square 2216, Lot 807).

HEARING DATE: February 3, 1999
DECISION DATE: February 3, 1999 (Bench Decision)

SUMMARY ORDER

The Board provided proper and timely notice of public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 3C and to owners of property within 200 feet of the site.

The site of this application is located within the jurisdiction of ANC 3C. ANC 3C, which is automatically a party to this application, submitted a written statement of issues and concerns related to the application.

As directed by 11 DCMR 3324.2, the Board has required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for a special exception pursuant to 11 DCMR 2516 and the case for variances from the strict application of the requirements of 11 DCMR 2516.5 (b) and 2516.6 (a). No person or entity appeared at the public hearing in opposition to this 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 3108, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3107, that there exists an exceptional or extraordinary situation or condition related to the property which creates a practical difficulty for the owner in complying with the Zoning Regulations and 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. The Board concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. It is therefore **ORDERED** that this application be **GRANTED**, **SUBJECT** to the following **CONDITIONS**:

1. The height, front, rear and side yard setbacks, length and width **SHALL BE** as specified in the detailed plans drawn by Greg Kearley, indicated in Exhibit #36 in the file.
2. The undersigned persons from five neighboring properties indicated in Exhibit #35 agree **NOT** to oppose or appeal the said BZA application or decision or the height, front, rear or side yard setbacks, length or width of said house (as described in said January 22, 1999 plans) in any other agency, court or forum.
3. The applicant shall have his proposed new house well landscaped.

Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.3 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 (Betty King, John Parsons, Jerry Gilreath and Sheila Cross Reid to grant).

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

ATTESTED BY: 
SHERI M. PRUITT-WILLIAMS
Interim Director

MAR 5 1999

FINAL DATE OF ORDER: _____

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.

BZA APPLICATION NO. 16386

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 FOR THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF TWO YEARS 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.

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BZA APPLICATION NO. 16386

As Director of the Board of Zoning Adjustment, I hereby certify and attest that on MAR 5 1999 a copy of the order entered on that date in this matter was mailed first class, postage prepaid to each party who appeared and participated in the public hearing concerning the matter, and who is listed below:

Gregory A. Kearley
2726 Ordway Street, N.W. #6
Washington, D.C. 20008

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


SHERI M. PRUITT-WILLIAMS
Acting Director

DATE: MAR 5 1999