

PUBLIC HEARING--April 14, 1965

Appeal #8134 Victor L. Clavelli, et al. appellants.

The Zoning Administrator District of Columbia, appellee.

On motion duly made, seconded and unanimously carried the following Order was entered on April 20, 1965:

ORDERED:

That the appeal for a variance from the use provisions of the R-2 District to permit erection of two apartment buildings with an FAR of ~~2x~~ 0.9 on land zoned in part R-2 and in part R-5-A on west side of 27th Street between Park Place and Que Street, S.E., lots 1, 2, 3, 4, 5, 44, 45, 46, 47, 48 and 803, square 5580, be denied.

As the result of an inspection of the property by the Board, and from the records and the evidence adduced at the hearing, the Board finds the following facts:

(1) Appellant's properties have 100 feet frontage on 27th Street, 130.47 feet on Que Street and 170.5 feet on Park Place. The two properties are separated by a 15 foot wide public alley and contain a total area of 25,189.9 square feet of land.

(2) Appellant proposes to erect two 14 unit apartment buildings and provide 28 off-street parking spaces.

(3) The property in question is zoned R-5-A for a depth of 100 feet from 27th Street and 30.46 feet at the rear if zoned R-2. Appellant proposes to erect his buildings entirely on the R-5-A portion of the lot and utilize the R-2 ground as open space and off-street parking. He requests to use the entire property with an FAR of 0.9.

(4) Appellant's Exhibit A is zoning plat showing property in question showing the division of the zoning lines and the proposed location of the buildings and off-street parking.

(5) Appellant's Exhibit B which shows ~~some~~ boring tests on the property which indicate that the site is underlain by fill from ground surface to about 20 to 34 feet depth and silty sand and clay layers to about 50 feet depth, the maximum depths of boring. Water observations indicate ground water is about 12 to 15 feet depth below ground surface.

(6) Appellant's Exhibit C is letter from architectural firm stating that an examination of the property indicates that the relief sought is the minimum necessary to overcome the hardships directly resulting from the topographic site conditions.

(7) Appellant's Exhibit D is site plan indicating that the parking will be in the rear of the buildings along the public alley and showing setback requirements.

(8) Appellant basis his hardship on the unusual topographic conditions of the property; that the portion zoned R-2 cannot economically be developed as single family residences and the substantial added cost of development of the property.

(9) There was no objection to the granting of this appeal registered at the public hearing.

OPINION:

The Board is of the opinion that appellant was unable to prove the burden of hardship under the provisions of Section 8297.11 of the Zoning Regulations which is the variance clause of the statute, the Board being of the opinion that adequate relief lies under the provisions of paragraph 7514.11 of the Zoning Regulations and particularly item (d) thereunder which provides that in computing the FAR for the R-2 portion of the lot that this FAR shall be limited to 0.4. The Board has no objection to the proposed off-street parking in the R-2 District.

The Board is of the further opinion that the hardships claimed by appellant by reason of topography, soil conditions and added cost of development is not sufficient to warrant a total FAR of 0.9 for the entire property. It is of the opinion, however, that the property can be developed by the utilization of the provisions of paragraph 7514.11 of the Zoning Regulations without suffering any undue hardship or financial loss to the appellant.

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The Board on April 20, 1965, amended its opinion in this appeal #8134 as follows: (This opinion supersedes the original entered on April 20, 1965):

OPINION:

The Board is of the opinion that appellant was unable to prove the extent of hardship under the provisions of Section 8207.11 of the Zoning Regulations which is the variance clause of the statute. The Board is of the opinion, however, that the granting of twelve (12) units in each of the two apartment building, by utilization of the R-2 portion of the property as yard space and for accessory parking, gives appellant adequate relief, and further, that this 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.

This AMENDED ORDER is therefore subject to the following:

- (a) Appellant shall re-subdivide the two properties into two separate lots.
- (b) Permission is granted to use the R-2 portion with an FAR of 0.4 with a total of two 12-unit buildings in the R-5-A District portion of the property and use the R-2 portion of the property for open area and parking. The R-2 portion of this property may not be built upon but shall remain a part of the land area.