

PUBLIC HEARING--May 12, 1965

Appeals #8179-80-81-82 George E. and Frances Doyle, Charles B. and Harriett Sinclair, Joseph and Florence G. Gottlieb and Mr. Maria Dispenza, appellants.

The Zoning Administrator District of Columbia, appellee.

On motion duly made, seconded and unanimously carried the following Order was entered on June 22, 1965:

**ORDERED:**

That the appeals for a variance from the use provisions of the R-2 District to permit office buildings and accessory off-street parking on the residential portion of lots 2, 3, 813, 4 and 5, square 1786, be conditionally granted.

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 proposes to develop the property with an office building meeting the requirements of the C-3-A District. In the preparation of plans for the building, the architect was unable to determine the exact location of the zoning district line dividing the C-3-A District from the R-2 District at the rear of the subject property. No measurements locating said district boundary line appear on the sectional maps which are a part of the zoning regulations.

(2) The architect upon inquiry at the Zoning Administrator's office was advised that the zoning district line was properly located as shown on drawing #1, Exhibit 5.

(3) The information given the architect by the Zoning Administrator's office was to the effect that the zoning line was located 100 feet east of the center line of 40th Street (See letter marked Exhibit #6.)

(4) In reliance upon the information received from the Zoning Administrator's office the architect proceeded with the design of the building and developed plans to the point where mortgages and leasing commitments were made.

(5) In December 1964, the architect for the first time learned that the information given him by the Zoning Administrator's office was erroneous and in fact that the zoning district line was properly located 100 feet east of the east line of 40th Street, N.W.

(6) During the period of time from early 1963 until December 1964, the architect, lessees and owners of the property proceeded with the planned development by the preparation of architects drawings of an approximate value of \$13,800 and entered into commitments for mortgages and leases of considerable value.

(7) In connection with the preparation of the plans, the sum of their value arises from the unusual shape of the property and the difficult sub-surface conditions which required a design to accommodate caissons in the foundation work. The shape of the property and the sur-surface conditions are inherent in the land and imposed a hardship on the owners in addition to those encountered as a result of erroneous zoning information.

(8) There was some neighborhood objection to the granting of this appeal registered at the public hearing.

(9) After the public hearing, the Board requested that the architect submit additional information concerning other means of access to the parking to be provided on the subject property. In accordance with this request the appellants submitted a supplemental drawing marked Exhibit #26 showing the location of the access driveway to the parking area through the building from Wisconsin Avenue. In providing this access, the appellant lose approximately 1,350 feet of allowable FAR over and above the 1000 square feet lost on the plans submitted to the Board at its public hearing. As a result of this additional loss of 876 square feet or .065 FAR. This was a supplemental request made at the time the supplemental exhibit was submitted. Further, in connection with relocating the driveway, the applicants requested that they be permitted to locate one parking space within the area designated as a loading berth at the rear of the building.

OPINION:

From the records and the evidence adduced at the hearing and the supplemental evidence submitted by the applicants, and upon careful consideration of the plans, the location of the property, its size and the unusual and difficult sub-surface conditions existing on the site, we are of the opinion that the applicants have proven a hardship within the provisions of Section 8207.11 of the Zoning Regulations. It is the opinion of the Board that the appellants should be relieved of this hardship by being permitted to construct the proposed office building and its accessory off-street parking on the residential portions of the lots in question to the extent that would have been permitted had the original information concerning the location of the district zoning line been correct. Further, we are of the opinion that the location of the access ~~plan~~ driveway through the building from Wisconsin Avenue represents a better plan than the proposed access to the parking spaces from 40th Street, N.W. In approving the supplemental plan the Board is of the opinion that the additional FAR relief should be granted and the location of one parking space within the loading berth should be granted.

We are further of the opinion that the foregoing relief can be granted without substantial detriment to the public good ~~and~~ and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and maps.

This Order shall be subject to the following condition:

- (a) There shall be no automobile access from the rear, however, a rear opening may be provided to be used only by trucks who cannot get access from Wisconsin Avenue due to their size. Appellant shall provide a locked gate when the rear entrance is not being used.