

Before the Board of Zoning Adjustment, D.C.

PUBLIC HEARING -- June 15, 1966

Appeal No. 8737-38 Nathan & Corrine M. Poole, Angelo & Melvina M. Puglisi, appellants.

The Zoning Administrator of the District of Columbia, appellee.

On motion duly made, seconded and carried with Mr. William S. Harps concurring in part, the following Order was entered at the meeting of the Board on June 22, 1966.

ORDERED:

That the appeal for a variance from the FAR requirements of the R-5-B District to permit erection of apartment building with an FAR not to exceed 2.8 at 1717-19 and 1707-1715 Lanier Place, NW., lots 401 and 402, 403 through 407, square 2582, be denied.

FINDINGS OF FACT:

(1) The appeals were originally scheduled to be heard May 18, 1966. Since there was a mistake in the advertisement, the Board ordered that the appeals be readvertised and rescheduled the hearing.

(2) On May 17, 1966, the Board made an inspection of the premises and the immediate neighborhood.

(3) The subject lots are occupied by row type housing.

(4) The subject property descends steeply to the rear from the rear of the row houses to an unimproved alley as do most other properties in the area.

(5) Appellant's property is located in an R-5-B District.

(6) The asserted hardship is in providing the necessary parking to the rear of the proposed building because of the topography. Access to the parking area must be through the building as the alley to the rear cannot be used. In addition, the topography necessitates the use of retaining walls to support the parking area.

(7) A topographic survey (Exhibit No. 8) indicates a 9% lateral difference in grade, an 11% difference in grade from front to rear of the site, and a 14% difference in grade from the highest point to the lowest point of the site.

(8) Appellants lots have a total area of 21,374 square feet.

(9) Appellants submitted three schemes for the development of this site (Exhibit No. 1). Scheme 1 proposes a 43 unit building erected on a theoretical level site at a cost of \$475,000.00 (Exhibit No. 9). Scheme 2 proposes a 43 unit building erected on the subject site at a cost of \$533,000.00, i.e. an addition cost of \$58,000.00. Scheme 3 proposes a 73 unit building erected on the subject site at a cost of \$846,000.00.

(10) Appellants presented a copy of part of the Baist Atlas of the District of Columbia (Exhibit No. 16) showing a 7.5 foot dedicated public alley to the rear of the subject property. The dedicated alley is improved and is inaccessible from any other public alley or street.

(11) No opposition to the granting of this appeal was registered at the public hearing. However, the record contains two letters expressing opposition. The Lanier Place Protective Association, the Mintwood Place Property Owners Association, and the Kalorama Citizens Association support the granting of this appeal.

OPINION:

It is the opinion of the majority of the Board that appellant has failed to establish a hardship within the meaning of the variance provisions of the Zoning Regulations. Although the Zoning Act states that all property within a given zoning district should receive equal treatment, the Board does not interpret this to mean that every property owner should be guaranteed the right to achieve optimum permitted development or optimum return on investment. The floor area ratios as set forth in Section 3302 are maximums beyond which the property owner with ideal conditions cannot go.

Also the Board is of the opinion that a variance should not be granted to a property owner because of a condition that is prevalent throughout the immediate neighborhood. Many properties in this neighborhood have been improved with apartment buildings without a variance from the Board. Numerous other properties in the neighborhood are similar to the subject property in that they are occupied by row housing and subject to redevelopment, and in both cases the properties are in a topographic situation similar to the appellants' site. If the Board granted this appeal, it would feel constrained

to grant similar variance to these other properties that might be redeveloped in the future because there are others with similar problems in the neighborhood.

It is the opinion of the majority that the Board should not grant a variance for a condition that is not almost unique to the property that is the subject of the appeal.

Although there is a hardship related to the subject site, appellants can make a reasonable use of the site without a variance increasing the FAR, and if the Board were to grant this and similar appeals it would result in overcrowding of the neighborhood and violate the intent and purpose of the Zoning Regulations and plan.

MR. HARPS, CONCURRING IN PART:

On reading the opinion, I am constrained to vote with the majority. It is my opinion that the narrowness of the streets in the immediate neighborhood and the difficult access make the development of density in excess of R-5-B undesirable.

However, if the appellant were to refile asking for a lesser variance, say 50 percent of the present request, I would support his appeal.

My vote at this time is therefore negative in concurrence with the majority.