

Before the Board of Zoning Adjustment, D.C.

PUBLIC HEARING -- February 15, 1967

Appeal No. 9095-96 A. Clanton and Martin E. Gibson, appellants.

The Zoning Administrator of the District of Columbia, appellee.

On motion duly made, seconded and carried with Mr. Samuel Scrivener, Jr. not voting, the following Order was entered at the meeting of the Board on March 28, 1967.

EFFECTIVE DATE OF ORDER -- June 6, 1967

That the appeals for a variance of the provisions of Section 7206.6 to permit driveway grades in excess of 20% at 3025 and 3029 P Street, SE., lots 16 and 17, square N-5545, be denied.

FINDINGS OF FACT:

- (1) The subject property is located in an R-1-B District.
- (2) Each of the subject lots is improved with a single-family dwelling. The dwellings have driveways and lot 16 has a garage in the rear. The homes have been purchased from the builder and are occupied by the purchasers.
- (3) The slope for each of the driveways exceeds the permissible grade of 20%. On lot 16 the grade is 27%.
- (4) The topography of the area is steep and hilly and presents difficulty in locating off-street parking.
- (5) No opposition to the granting of this appeal was registered at the public hearing.

OPINION:

We are of the opinion that this request for a variance from the permitted driveway grade of 20% must be denied. Although the topography of the land presents difficulties for the builder as far as provisions for off-street parking, the Board concludes that such parking may be provided. Indeed, the builder indicated that the parking would be located on the lot when the building permits were approved. The topography has not changed since the lot was surveyed to build single family dwellings. The grade existed at that time and should have been taken into consideration when the house was designed and the parking space provided. Indeed, homes in this area have been built on lots with comparable grades

where the parking was provided either in a driveway or garage under the dwelling. Inasmuch as the builder erected this dwelling without making provisions for the parking problem, the Board concludes that the necessity for the variance was created by the owner.

Further, the Board concludes that to grant this variance would impair the purpose and intent of the Zoning Regulations and Map and adversely affect the use of nearby and adjoining properties and have an adverse affect upon the character and development of the neighborhood.

Before the Board of Zoning Adjustment, D.C.

PUBLIC HEARING -- February 15, 1967

Appeal No. 9095-96 A. Clanton and Martin E. Gibson, appellants.

The Zoning Administrator of the District of Columbia, appellee.

On motion duly made, seconded and carried with Messrs. William F. McIntosh and Arthur B. Hatton dissenting, the following Order was entered at the meeting of the Board on June 20, 1967.

EFFECTIVE DATE OF ORDER - Oct. 4, 1967

ORDERED:

That the appeal for Reconsideration be granted with Messrs. William F. McIntosh and Arthur B. Hatton dissenting.

That the appeals for a variance of the provisions of Section 7206.6 to permit driveway grades in excess of 20% at 3025 and 3029 P Street, SE., lots 16 and 17, square N-5545, be granted.

FINDINGS OF FACT:

(1) The facts are essentially as stated in the Board's Order effective June 6, 1967.

(2) Appellants' representative presented a Petition for Reconsideration on June 15, 1967.

(3) That petition admits that the variance is necessary because of a field error made when the contractor built the houses.

(4) In addition, the Petition states that "To change the grade at this date would entail a great expenditure of money, expose concrete and cinder blocks on the respective houses, create a hazardous situation with respect to egress and ingress of the garage at the rear of Lot 16. Additionally, the footings of the respective houses would be less than the required thirty inches from the surface and in case of unusually severe cold weather, this might create a serious problem, as the thirty inches required is to keep the footings below the frost line. * * * the houses would then be in violation of the thirty inch requirement of the building code and this could only be corrected by removing the entire wall and the footings."

(5) No opposition to this appeal is of record, nor was any expressed at any public hearing.

OPINION:

The Board has carefully studied the Petition for Reconsideration and concludes that the appeal may be granted.

Although we take a dim view of this type of variance, the circumstances of this case seem to take it out of the realm of the "intentionally created hardship." We emphasize that the error of the contractor does not constitute a hardship or ground for a variance within the meaning of the Regulations. However, the harm at this point seems to be on the present resident-owners of the properties. They have indicated, through their attorney, that the variance to permit use of the driveway would not be hazardous and would be satisfactory. Therefore, the denial of their request would impose an added burden to them. In view of the lack of objections from neighboring property owners and the consent of the current owners, the Board grants the requested variance.

In our view, appellants have shown a hardship, and the granting of this appeal will not adversely affect nearby and adjoining property or substantially impair the present character and future development of the neighborhood.

BY MR. HATTON:

This appeal should not be granted because the appellants have not shown a hardship within the meaning of subsection 8207.11 of the Zoning Regulations. The problem is man made, resulting from an error on the part of either the builder or his architect, and other remedies should be found. This situation is also not exceptional as the Board has been receiving an increasing number of requests of a similar nature, and if the trend continues, the intent, purposes and integrity of the Zoning Regulations will be impaired.