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To :
Fax # : 1-202-727-6072
Sender : Marty Block
Date : 04/21/2003
Re : Application No 16996 Findings of fact/1

Number of pages (Including cover sheet): 6

To The Attention of Richard Nero
To the Attention of ANC3G

Attached please find the write up for application number 16996 for the BZA to modify, append, revise for proper form of order. This is in response to the directive from the Commissioner on the date of the hearing.

Would each recipient file or transfer as appropriate to the correct party for final filing.

Thanks you for your patience - I suspect the wheels of government would have been faster than me.

Respectfully submitted,

Martin Block
Homeowner

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2003 APR 21 PM 2:17

BZA
Case No. 16996
Exhibit No. 33

Board of Zoning Adjustment
District of Columbia
CASE NO. 16996
EXHIBIT NO. 33

Application No. 16996 of Martin Block, pursuant to 11 DCMR § 3104.1 for a special exception to allow an addition to an existing one-family dwelling under section 223, in the R-1-B district; and amended to allow, pursuant to 11 DCMR § 3103.2, for a variance from the off-street parking requirements under section 2101.1 at the premises 3348 Military Road, N.W. (Square 1991, Lot 35).

DECISION AND ORDER

At a hearing on March 25th, 2003, the Board voted 4-0-1 to approve the application, amend the application to consider the referenced variance and voted 4-0-1 to approve the amended application.

PRELIMINARY MATTERS

Notice of Application and Notice of hearing. By memoranda dated February 4, 2003 the Office of Zoning advised the Applicant, the Office of Planning, Department of Transportation, the ANC 3G, and Councilmember for Ward 3, of the application. The applicant's architect prepared and submitted a self-certification regarding the applicable zoning matters in this case.

The Board scheduled a public hearing for March 25th 2003. Pursuant to 11 DCMR § 3113.13, the Office of Zoning mailed the Applicant, the owners of all property within 200 feet of the subject property, ANC3G, the Office of Planning, and Department of Transportation letters providing notice of the hearing.

The applicants affidavit of posting indicates that two (2) zoning posters were placed on the subject property, one facing Military Rd. N.W., the second facing Nevada Ave. N.W., on March 3rd, 2003.

Requests for Party Status: ANC 3G was automatically a party in this proceeding. No other requests for party status were received.

Applicant's Case: The applicant Mr. Martin Block, along with Mr. Matthew Ossolinski, AIA, the applicant's architect presented the case for the applicant. Mr. Block argued that the proposed modifications and addition met the criteria for special exception under Section 223.

The applicant's request to amend the application to request a variance was a result of information obtained from the Office of Planning report. The report stated that presently used driveway cannot be considered as a parking area for purposes of satisfying Section 2101.1 because the intended space is between the Building Restriction Line and the public space. Based on information from the Office of the Surveyor, a Building Restriction Line is synonymous with a property line for purposes of evaluating available space for this use on the subject lot.

GOVERNMENT OF D.C. ZONING COMMISSION 2003 APR 21 PM 2:17

The applicant represents that a practical hardship presently exists with regards to the off-street parking requirement and thus seeks relief from Section 2101.1 as a result of these practical hardships.

The applicant presented strong support form the immediate neighborhood, as well as the two adjacent properties most affected by the application and proposed addition.

Government Reports:

The Office of Planning submitted a report dated March 18, 2003 was submitted concluding the application could meet the standards for approval of the special exception subject to the resolution of the parking issue

ANC Reports: ANC3G submitted a report dated March 17, 2003, signed by the Vice Chair voting "not to support" the application under a vote of 4 to 3 against, with one vote against being by Proxy and voted by the Chair, based on a March 10, 2003 meeting.

Parties and Persons in Opposition to the Application: An individual letter was submitted by Ann Renshaw in her capacity as the single district representative was hand delivered March 25th ,2003, in opposition to the request for a variance.

No persons or parties appeared in person at the hearing in opposition

Parties and Persons in Support of the Application: An individual letter of support was submitted by Jerry Levine, ANC Commissioner ANC3G5, on March 12, 2003 by facsimile, in his capacity as an individual ANC district representative.

The applicant presented signed statements in the form of a petition in support of the application from 15 neighbors within the 200-foot area in all directions from the property including the immediately adjacent neighbors. The applicant also presented a letter from his 9 year-old son in support of the application. The Chairman accepted these into the record.

Hearing: A hearing was held on March 25th 2003. Board members present included Geoffrey H. Griffiths, Curtis L. Etherly Jr., David Zaidain, and John Parsons.
(Anne M. Renshaw, recused because of her prior involvement in the matter as the single member ANC district representative for the applicant, and in her capacity as the ANC3G chairperson.)

FINDINGS OF FACT:

1. The subject property is located at 3348 Military Road, N.W. (Sq. 1991, Lot 35) in the Chevy Chase neighborhood of Ward 3. The site is improved with a two-story single-family detached house built in 1930.

2. The property is located on the southeast corner of the intersection of Military Rd., N.W., and Nevada Ave., N.W. and is subject to two (2) building restriction lines; one on the north side of the house on Military Rd. N.W., the other on the west side of the house facing Nevada Avenue, N.W.

3. The lot is presently undersized for the current zoning regulations for a single-family lot in the R-1-B district (less than 5000 sq. ft.).

4. The lot and its improvement presently do not conform to the current rear yard setback requirement of 25 feet.

5. The calculated rear-yard setback is presently 10 feet, 6 inches.

6. The side yard distance is presently 14 feet. The proposed 6' addition allows for 8 foot side-yard distance and therefore requires no relief.

7. The lot shape is irregular, and of unusual size and shape, with unusual dimensions having the larger edges of the lot facing the roadways, the smaller borders adjacent to the side-yard and rear-yard neighbors;

8. The lot lacks an alley or access to an alley; vehicle ingress or egress is presently via the driveway entered via Nevada Avenue, N.W.

9. The lot area is 4,232 square feet, with present occupancy at 1052 square feet (occupancy approx 25 %). The proposed renovation and addition will bring occupancy to 1495 square feet representing 35.2 % (percent) occupancy.

10. The Office of Planning report presented a conclusion that that proposed application should be supported if the parking requirement for the zoning district was met. They reported that the intended space for that use was outside the building restriction line and was therefore not part of the property.

11. The applicant presented a 3-dimensional scale model that showed the two adjacent homes and the proposed construction.

12. The Board determined that based on the plans submitted and the model presented that the applicants plan clearly met the tests and requirements for relief under Section 223.

13. On discovery of the issue (March 18, 2003), the Applicant filed a brief with the BZA requesting that he Board waive its 14 day time period for comments and briefs and to accept the brief requesting an amendment to the application to grant a variance to the parking requirement for the subject property

14. The present lot configuration does not allow a regulation sized parking space to be located within the extant building restriction lines and property lines, with the

exception of the east side of the property. The east side is problematic because it presently has no ingress or egress to it for vehicle traffic.

15. The BZA commissioners did consider and discuss that because the lot did not presently contain a usable garage, and that for the purposes of requiring a variance there were no parking spaces presently, and so therefore a variance was not required.

16. The applicant expressed that during the preparation of the Office of Planning report the same question was posed to the Zoning Administrator. The Administrator declined to offer that opinion, deferring instead to the BZA for such conclusions. The representative present from the Office of Planning did confirm this information.

17. The applicant requested the BZA rule, in any case, so as to head off any appeal from parties or agencies during the permit process. If no variance was needed, having one was not problematic. If another Board or Court determined that a variance was in fact required, having it granted now was the best and most expedient administrative approach.

18. The BZA chair offered a motion (seconded by Mr. Etherly) to amend the application to include a request for a variance for section 2101 to grant relief to the applicant from providing the required parking space to be located on the subject property. The motion passed 4-0-1.

19. The BZA chair offered a motion (seconded by Mr. Etherly) to grant a variance to the section 2101 to grant relief to the applicant from providing the required parking space to be located on the subject property. The motion passed 4-0-1.

Findings of Law:

The Board finds that the application and indications of the project from the filed application and visual aids used in presentation meets the tests and criteria for granting of a Special Exception under Section 223. The applicants proposed addition and renovation does not substantially adversely affect the use or enjoyment of any abutting or adjacent dwelling or property. The addition, while closer to the rear yard line does not reduce the use or access of the adjacent side yard of the neighboring house. The light and air available to the neighboring properties is not unduly affected as the design of the addition closest to the rear neighbor scales downward so as not to dwarf the adjacent home and to reduce the massing the addition might present.

Further the Board finds that the applicant has demonstrated that the requirement for relief of the parking requirement is met based on the present conditions; that the applicant is not creating the hardship from which they seek relief. Analysis of the existing property, it's configuration, present improvements, grade, and other factors such as lack of alley or other access create the practical hardships that are necessary to support granting relief

from the parking requirement. The Board has the authority under 11 DCMR § 3103.2 to grant such relief.

The applicant has the support of the two adjacent neighbors and has been in continuous discussions with these most affected parties over the time of development of the plan. The applicant has demonstrated strong neighborhood support for the project.

The Board has received and has considered the report of the ANC with respect to the application for Special Exception and has afforded the report the 'great weight' required by the Board with respect to these reports. It has also reviewed and carefully considered the individual statements of two individual ANC members in this matter.

For the reasons stated above the Board concludes that the applicant has met its burden of proof. It is hereby ORDERED that the application as originally filed is AMMENDED as requested, and that both the application and amendment for relief of the parking requirement under Section 2101.1 this day is GRANTED.