GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Andrew Altman
Director

DATE: March 2, 2004

SUBJECT: BZA Application 17123
3139-43 Westover Drive S.E.

APPLICATION
Beech Center, Inc. is requesting area variances to allow the construction of single family homes on two lots that do not meet the minimum lot area on property located at 3139 and 3143 Westover Drive S.E. (Square 5664 Lots 70 & 71) pursuant to Sections 401.3 under Title 11 of the District of Columbia Municipal Regulations (DCMR), Zoning.

SUMMARY RECOMMENDATION
The Office of Planning **cannot recommend approval** of the area variances to allow construction on the two lots. OP finds that the approval of these variances would be in direct contradiction of section 401.2 of the zoning code and that the economic hardship argument provided by the applicant is not sufficient to meet the practical difficulty requirement for variance approval.

SITE AND AREA DESCRIPTION
This subject properties are located approximately 200' south of Pennsylvania Avenue on Westover Drive S.E. The properties are situated within the radius of a 180-degree curve of Westover Drive as it wraps around the hillside to the south. The graphics on the next two pages show the location of the lots on the side of the hill in relation to the road and the surrounding properties. The topography on the subject lots slopes upward significantly immediately south of Westover Drive.

The properties are in a single family residential neighborhood located between Pennsylvania Avenue to the north and Fort Circle Park to the south. The properties and the surrounding area are zoned R-1-B.

BZA
Case No. 17123
Exhibit No. 24

Board of Zoning Adjustment
District of Columbia
CASE NO. 17123
EXHIBIT NO. 24



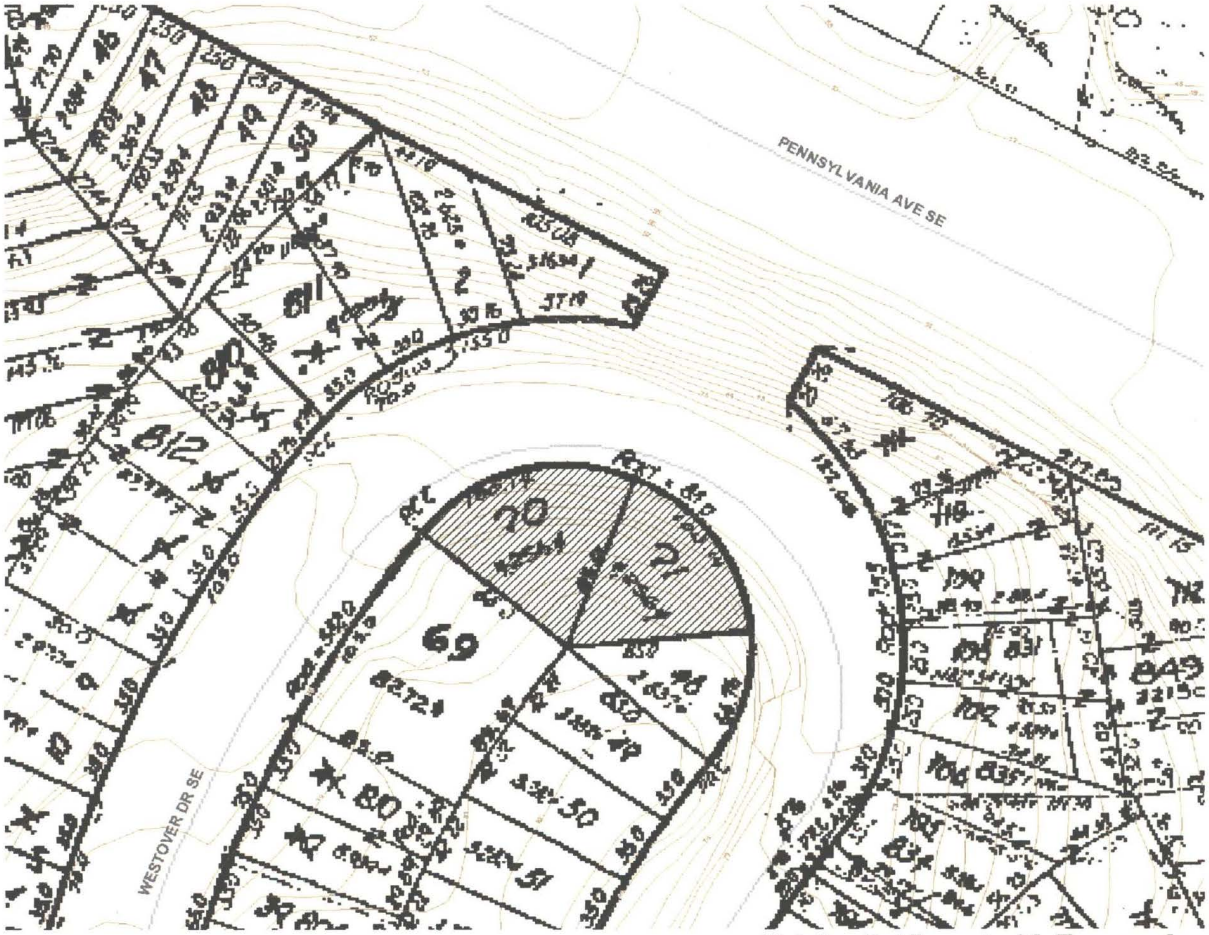
Aerial View of Property from the North

LOT HISTORY

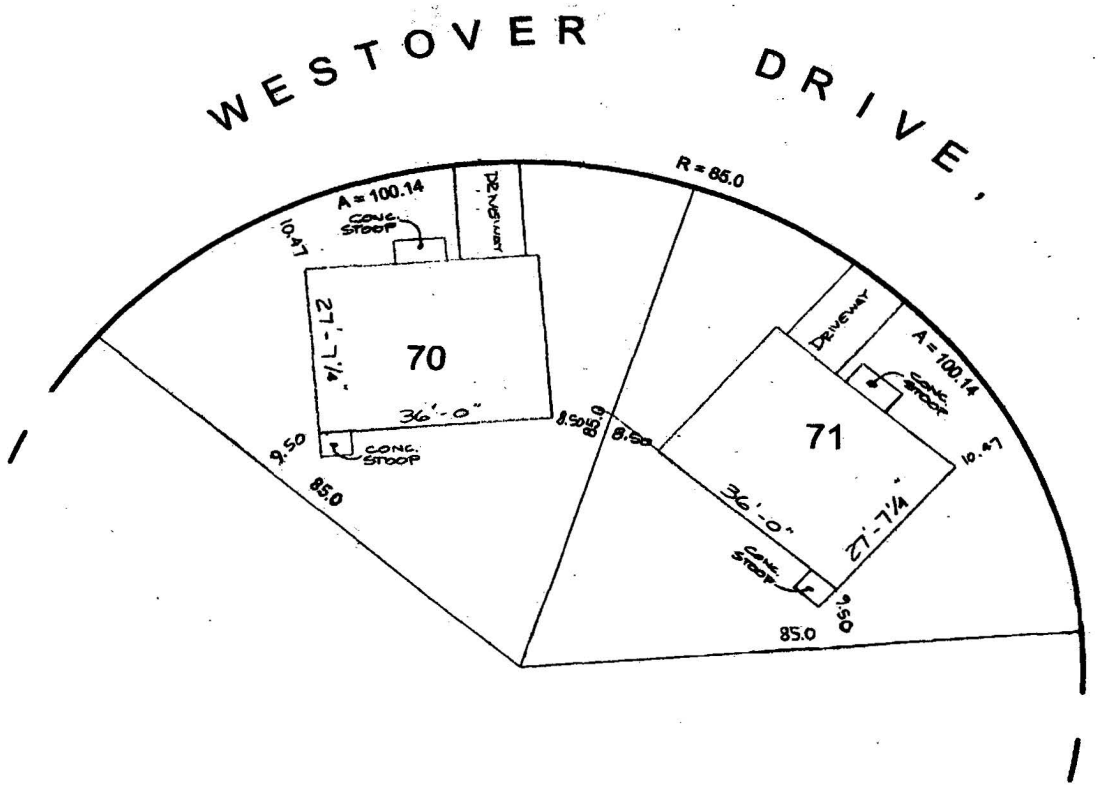
This subdivision was originally platted in 1911. The two lots subject to this application were platted as three lots of 2,837 square feet each. In 1985, the lots were combined, in a subdivision signed by the Zoning Administrator, into two lots of 4,256 square feet apiece. These lots were created smaller than the 5,000 square feet required for lots in the R-1-B zone. Each lot meets the lot width requirement of an irregular lot by having an average distance between side lot lines of greater than 50'. In light of the lot size, it is unclear if the 1985 subdivision is valid. While the Zoning Administrator referred the case to the Board for a lot area variance, the plat remains recorded with nonconforming lots.

PROJECT DESCRIPTION

The applicant proposes to cut away the existing hillside on these lots to construct two single family homes. The houses would front to the north and retaining walls would maintain the existing hill to the south. The proposed site plan would meet all of the R-1-B zoning requirements with the exception of lot size, including setbacks and lot occupancy. The graphic below shows the layout of the lots in the existing subdivision. The lot layout shows the 1 meter topography contours. The graphic on the next page the proposed site plan for location of the two homes.



Existing Lot Layout with Topography



Proposed Site Plan

ZONING ANALYSIS

§401.2 Except as provided in §401.3, in the case of an unimproved lot in single ownership on November 1, 1957, that has a lot area or width of lot less than that specified in §401.3 for the district in which it is located and that does not adjoin another unimproved lot in the same ownership, a structure may be erected on the lot if both the lot area and width of lot are at least eighty percent (80%) of the lot area and width of lot specified under §401.3; provided, that the structure shall comply with all the other provisions of this title.

This section of the residential zone requirements provides for the development of a lot smaller than otherwise required *if* the lot existed as of November 1, 1957 and *if* it does not adjoin another unimproved lot in the same ownership. The lots in question were created in 1985 in a manner inconsistent with the zoning regulations. Furthermore, there are two adjacent lots under the same ownership that could be combined to create a conforming lot. The above section of the zoning code appears to specifically address this situation with the intent that such lots should be combined to eliminate the nonconformity.

VARIANCE ANALYSIS

The provisions of §3103.2 require the applicant to show a unique physical aspect or other extraordinary or exceptional situation or condition of a specific piece of property that creates an undue hardship or practical difficulty. In addition, there should be no harm to the public or to the zone plan.

Extraordinary or Exceptional Situation

The combination of topography and shape make these lots unique. Both lots are pie-shaped and are effectively corner lots without meeting the definition of a corner lot because they only front on one road. The topography of the lots is extreme, rising more than twenty feet from the street frontage to the south side of the lots. Being 85 feet deep, this constitutes over 25% slope on the lot. Construction of any home or homes on these lots will require significant structural engineering and/or excavation.

Practical Difficulty

The applicant has claimed that the above situation creates a practical difficulty in developing the property. The applicant has submitted estimates of costs associated with the project that support their application. These estimates along with the applicant's statements are attached to this report. OP agrees that spreading the costs of the excavation and construction over two lots would be more economic, however remains unconvinced that this represents a practical difficulty. It is very difficult to prove that a one lot project with a higher quality house and less excavation is impractical at this location.

Substantial Detriment

In addition to the above tests, §3103.2 further requires that the relief requested will not be a substantial detriment to the public good or substantially impair the intent, purpose and integrity of the zone plan.

Concerned neighbors have raised two issues that relate to potential detriment to the public good. The first involves the excavation of the hillside and the creation of a massive retaining wall on the north side of both lots. The lowering of the property to the level of Westover Drive will require a retaining wall of at least twenty feet in the nine foot yard between the rear of each house and the neighboring property line. While a single house on one lot would require excavation as well, the disturbed area and size of the retaining walls would be smaller. The effects of this construction on the neighboring properties and the neighborhood should be considered in this application.

The second issue raised by the neighborhood is the potential traffic impacts on this tight curve of an extra driveway. The size of the hill and radius of the curve do limit visibility on Westover Drive and the neighbors urge consideration of the effects of two driveways rather than one. DDOT has not provided OP with comment on this issue.

The substantial detriment test also takes into account the intent, purpose and integrity of the zone plan. As stated before, §401.2 appears to be intended to address this type of situation. The purpose seems to be to require nonconforming lots to combine when and where possible. If this is the intent of the code, approval of this variance would directly impair the intent and integrity of the zone plan.

COMMUNITY COMMENTS

The ANC was scheduled to review this application on Thursday, February 19, 2004. While OP was informed of neighborhood opposition at the meeting, no report has yet been filed.

RECOMMENDATION

The Office of Planning concludes that the minimum burden of proof has not been met, pursuant to 11 DCMR 3103.2 of the Zoning Regulations, for the granting of variances from the minimum lot size (§401.3) to permit the construction of two single family homes at 3139 and 3143 Westover Drive S.E. The conflict with the intent of the zoning code and the difficulty of proving an economic hardship as a practical difficulty prevent OP from recommending approval of this application.

The Office of Planning **cannot recommend approval** of the requested variances by the Board of Zoning Adjustment.

AA/tp

Attachments

1. Applicant's statement
2. Applicant's cost estimates

PHILIP L. JOHNSON & ASSOCIATES
821 4TH STREET, NE
WASHINGTON, DC 20002
202-544-3012 FAX-202-544-6467

February 18, 2004

Travis Parker, AICP
Office of Planning
841 North Capitol Street, NE
Washington, DC 20002

Re: BZA Area Variance Relief for 3139 and 3143 Westover Drive, SE

Dear Mr. Parker:

This letter is a response to your request for written justification for the area variance requested from the Board of Zoning Adjustment:

1. **Extraordinary or Exceptional Situation**. The neighborhood consist of a large hill with the circumference of Westover Drive in an oblong circle encompassing the entire area and turning into 31st Street as the road winds its way to Pennsylvania Avenue, SE. The neighborhood was in existence when the current zoning regulations were established. Dwelling units are either built on the hill, in the hill or facing Westover Drive, across the street from the large hill. The two lots in question 3139 and 3143 are pie shaped lots that will be established by the removal of earth to create two housing sites. The lots will be narrow at one end and the sides of the lots will abut the hill. The topography is steep and hilly. The plat for the two lots, indicate that the lots will be in compliance with every other aspect of the R1-B zone.

2. **Practical Difficulty**. The zoning requirement of a single-family lot consisting of 5,000 S.F. is simply not or practical or feasible and results in economic hardship to the owner. The cost of developing the site is driven by the steep topography. The most practical approach to developing the site is to spread the cost across two lots. The value or sales prices in the neighborhood are not quite sufficient to offset the cost with one housing unit. Many years ago when the neighborhood was first developed the cost of construction was cheap enough to allow such development to occur without practical difficulty. Case in point all of the older house have brick skins. Today brick will add $25,000 to the cost of the structure. Brick is no longer practical except in the case of very expensive houses where cost is not a factor. The houses will be constructed according to the best engineering consensus arrived at between DC staff and professional engineering hire by the developer. Some of the existing houses that were built many years ago were not built up today's codes

and are suffering some settlement and erosion difficulties. Of course, it is quite necessary for us to avoid such pitfalls simply by conducting comprehensive geotechnical analysis and developing engineering plans that are approved by DCRA for construction.

3. **Integrity of the Zone Plan**. The plat for the two lots in question indicates that the property is in compliance with every requirement of the zone with area being the exception. The variance will have a minimal impact on the integrity of the zone plan. In the end the variance will permit the construction of two single-family homes whose lot sizes though not totally conducive of the zone plan but by no means impugn the integrity of the plan.

Finally, if you have any questions, pleas feel free to give me a call.

Sincerely,

Philip L. Johnson
Principal

WESTOVER DRIVE SE-NEW CONSTRUCTION -Page One
ONE-Single Family Detached Unit & ONE EXTRA LOT

HARD COST BREAKDOWN-(Construction Budget)

BASE PRICE-MODULAR UNITS	$	118,000
FOUNDATION/SLABS/WALLS		
(Pre-cast concrete)		
Excavation-	$	8,000
Hauling-150 dump truck loads		20,000
Concrete Work-Foundation/slabs		18,000
PLUMBING		
Underslab & Hookups	$	7,000
SITE WORK/LANDSCAPING		
Retaining Walls	$	20,000
Landscaping		5,000
EXTERIOR FINISH/ERECTION		
Brickwork	$	3,500
Siding/Gutters & Downpouts		5,000
Garage Door/Opener		1,000
Garage Finish		1,500
Erection/Crane		1,000
INTERIOR FINISH		
Electrical Work	$	5,000
HVAC		5,500
Basement Stairs/Windows		2,000
Interior Trim-Carpentry		2,500
Touch-up Painting		1,000
Carpets-(installation)		1,000
Finish basement		17,500
Appliances		3,000
MISC.		
Trash Removal	$	1,500
Cleaning		1,000
Buyer Call Back		1,000
Contingency		5,000
Total Cost of Construction	$	254,000

WESTOVER DRIVE, SE - Page Three

SQUARE FOOTAGE OF UNITS		2500
PROFORMA BASE UNIT		
Sales Price-(Agreggate cost)	$	435,558
Price/sq. ft		174.2232
Settlement Cost-1.5%		
R.E. Commission- 3%		19,600
Total Proceeds after SC/R.E.		415,958
Undeveloped Lot Cost-		75,000
Finished Lot Cost		150,000
Construction Cost	$	254,000
Cost/sq. ft.	$	101.60
Soft Cost	$	62,101
Total Hard & Soft Cost	$	391,101
Cost/sq. ft.	$	156.44
Proforma Profit Margin	$	24,857
Margin Percentage	$	5.00
margin/sq. ft.	$	9.94
Quantity-Units		1
Proforma Profit Margin****	$	74,857
By Unit Type		92,145
Aggregate Proforma	$	435,558
Profit Margin	$	74,857
Less Up-Front Capital	$	20,000
Partnership Distribution	$	54,857

**** (ProfitMargin Includes sale of extra lot at $50,000 profit)

Note: The development cost for the two lots is absorbed by one house Rendering the project marginal at best. This is achieved by Selling a lot at $125.000. The Project becomes feasible by spreading the cost over two lots.

WESTOVER DRIVE, SE (New Construction)

CONSTRUCTION LOAN PROFORMA

Loan Amt. (100%) of cost)	$	449,000
Lot Funding (90%)	$	135,000
Construction Cost		254,000
Available For Soft Cost	$	60,000
INTEREST EXPENSE		
Lot and Const.	$	10,211
Lender Fee-Construction		3,890
Inspection Fee		300
Taxes and Insurance		3,000
Marketing Cost		500
Administration-Overhead		20,000
Arch/Engineer/Permits		20,000
Security		-
Appraisal		700
Environmental Phase 1		1,500
Legal Closing		2,000
Total Soft Cost	$	62,101
Loan Summary		
Lot Funding	$	135,000
Construction Cost		254,000
Interest Reserve		9,818
Soft Cost		52,283
Per Unit Loan Amt.	$	451,101
Loan Amt./sq. ft.		
Unit Mix		1
Total Project Cost	$	451,101