

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13473, of MVF Associates Limited Partnership, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Sub-section 7205.3 to provide accessory parking spaces within an open court and variances from the floor area ratio requirements (Sub-section 5301.1), the residential recreation space requirements (Paragraph 5302.21) and the off-street parking requirements (Sub-section 7202.1) for a proposed renovation and addition to an existing commercial building and the conversion of the fourth floor to three apartment units in a D/C-2-A District at the premises 1328 Wisconsin Avenue, N. W., (Square 1218, Lots 846, 847 and 848).

HEARING DATE: April 22, 1981

DECISION DATE: May 6, 1981

FINDINGS OF FACT:

1. At the public hearing, the applicant submitted revised plans for the project which are marked as Exhibit No. 24 of the record. Such plans provide sufficient residential recreation space to meet the requirements of Paragraph 5302.21. The applicant therefore withdrew its request for a variance regarding that paragraph.
2. The property was advertised as being located in a C-2-A District. It is located in a D/C-2-A District. As to the requested relief, there is no distinction between the C-2-A and D/C-2-A Districts.
3. The subject property is located in the southwestern portion of Square 1218, excluding Lot 800 which is at the corner of Prospect Street and Wisconsin Avenue, N. W. The site is bounded on the north by a commercial structure two stories high, on the east by Wisconsin Avenue, on the south by a commercial structure four stories high and Prospect Street, and on the west by a ten foot public alley.
4. The subject Lots 846, 847 and 848 contain 8,828 square feet of lot area. The property is presently improved with a single structure under the Zoning Regulations which was originally constructed as three separate buildings. This structure has an unusual layout and shape and contains sections with four stories, three stories and one story. On the first floor there is now a saloon and a restaurant with a seating capacity of 225 persons.

The second floor is partially vacant, and has only a small amount of office space serving the saloon and restaurant. The third and fourth floors have been entirely vacant for approximately one year and partially vacant prior to that.

5. The upper floors of the structure cannot be used in their present condition and they require substantial renovation and rehabilitation work to become useful, occupiable space. Without such work, the upper floors, except for the small offices on the second floor serving the saloon and restaurant, will remain vacant. The structure in its present state can only be used for restaurant and saloon purposes on the first floor.

6. The applicant proposes to completely remodel, renovate and rehabilitate the existing structure and to add a second story to the northern, one-story section. Upon completion of the work, five small retail shops will occupy the first floor, offices will occupy the second and third floors, and the fourth floor will have three apartments.

7. The existing building contains approximately 18,000 square feet of gross floor area. The applicant proposes an addition of approximately 1,928 square feet. The total gross floor area of the building will be 20,049.40 square feet, less than the 22,070 square feet permitted. However, the gross floor area devoted to office and retail uses will be 17,821.38 square feet, more than the 13,242 square feet allowed. The applicant thus seeks a variance of 4,579.38 square feet of commercial gross floor area.

8. The proposed second story addition at the northern portion of the site will match the cornice lines of the two story buildings to the north and provide a transition to the four story portion of the applicant's structure which is immediately to the south of the one story structure.

9. The first, second and third stories of the existing building have a total floor area ratio of approximately 1.6. If limited to 1.5 floor area ratio, it is not practical to divide the third floor of the four story structure into a small residential component and an office component.

10. It is economically infeasible to restore, renovate and rehabilitate the existing building for more residential use than the three apartments on the fourth floor as proposed by the applicant. It is further not desirable to locate residential units on the third floor of the subject building due to the intense noise, traffic and activity generated at this busy intersection in Georgetown.

11. The Zoning Regulations require six off-street parking spaces to be provided for the proposed use of the building. The existing building occupies almost ninety-five per cent of the lot.

The only area not occupied is a closed court at the rear of the building adjacent to the ten foot public alley. That court measures approximately sixteen feet by thirty feet. It is being slightly enlarged to accommodate three parking spaces which meet the size requirements of the Zoning Regulations. Paragraph 7205.12 permits the location of accessory parking spaces in an open area of a lot in a rear yard or side yard, or elsewhere if accessory to a commercial or industrial use. Since the three proposed spaces in the court are accessory to a commercial use, they meet the requirements of the Zoning Regulations.

12. The applicant is unable to provide on the site the additional three spaces to meet the requirement of six. The applicant therefore seeks a variance for those three spaces.

13. There are three existing, off-street parking facilities in the immediate vicinity of the subject site, at 3320 Prospect Street, N. W., 3251 Prospect Street, N. W. and 1229 Wisconsin Avenue, N. W. The facility at 1229 Wisconsin Avenue, N. W. contains five spaces which directly serve the subject property that are provided by virtue of a covenant entered into between a former owner of the premises and the District of Columbia.

14. Sufficient parking spaces exist within a reasonable walking distance of the site to satisfy the parking demand generated by the proposed development during all hours of the day.

15. The provision of three parking spaces in the court on-site and three additional spaces to be located at either facility on Prospect Street will not adversely affect adjoining and surrounding properties and would be consistent with the general intent and purposes of the Zoning Regulations.

16. The Office of Planning and Development, by memorandum dated April 17, 1981 and by testimony at the hearing, recommended that the application be denied. The OPD reported that the large amount of floor area to be devoted to commercial use is inappropriate and subverts the intent of the Zoning Regulations for the C-2-A District as amended in 1978. The OPD further noted that the ratio of residential to commercial space is inadequate. The OPD noted a security problem created by the isolation of apartment units on the fourth floor of the building. The OPD did note its support for the parking plan proposed by the applicant, and found that there was adequate basis for the requested special exception and variance. The Board concurs only as to the parking relief. As set forth in finding of fact 10, there is sufficient basis to grant the requested FAR variance .

17. Advisory Neighborhood Commission 3-A, by letter dated April 14, 1981, advised the Board that the ANC opposed the variance for parking. The ANC was concerned about the general shortage of parking spaces in Georgetown, and the resulting effect on traffic and congestion. The ANC suggested that the developer provide three on-site-spaces and retain the six parking spaces now required off-site by covenant. The ANC did not object to the other variances sought by the applicant.

18. The owners of abutting property to the north supported the application.

19. The Board is required by statute to give "great weight" to the issues and concerns of the Advisory Neighborhood Commission. In this case, the Board is also concerned about the adequacy of parking. The Board notes that there will be three spaces on the site, and that five are required on a site across Wisconsin Avenue. The Board will further require the applicant to provide three additional off-site parking spaces.

CONCLUSIONS OF LAW AND OPINION:

Based on the Findings of Fact and the evidence of record, the Board concludes that the applicant is seeking a special exception and two variances. In order to be granted the required exception, the applicant must demonstrate that it has complied with the requirements of Sub-sections 7205.3 and 8207.2 of the Zoning Regulations. Based on Finding of Fact No. 11, the Board concludes that the three parking spaces in the court are permitted under Sub-Paragraph 7205.123, and no special exception under Sub-section 7205.3 is required.

The Board concludes that the requested variances are area variances, the granting of which requires the showing of an exceptional or extraordinary condition of the property which creates a practical difficulty for the owner. The Board concludes that the size of the lot and the configuration of the existing building make it impractical to locate more than three spaces on the lot. This condition causes a practical difficulty for the owner in using the existing building.

With regard to the FAR variance request, the Board concludes that the subject site is unique and affected by several unusual and exceptional circumstances. The Board notes the size and unusual layout of the existing structure, its present condition and the need to remodel, renovate and rehabilitate it. The Board concludes that there is a practical difficulty in remodeling and using the structure under the present regulations of the C-2-A District. The Board further concludes that strict application of the regulations would work a practical difficulty on the applicant and that the elements necessary to grant a variance are inherent in the property.

The Board concludes that the requested variance relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and intergrity of the zone plan as embodied in the Zoning Regulations and maps, if the applicant provides three additional off-site parking spaces. The Board concludes that it has accorded to the ANC the "great weight" to which it is entitled.

It is therefore hereby ordered that the application is granted subject to the condition that the applicant shall provide three parking spaces on-site and three additional off-street parking spaces off the site. Such three off-site spaces shall be located within 800 feet of any lot line of the subject property. The applicant shall file with the Zoning Administrator every five years a lease or other legal document assuring that such three spaces are available for parking for the subject structure. The first such filing shall take place prior to the issuance of certificates of occupancy for office use on the second and third floors of the structure.

VOTE: 4-0 (Douglas J. Patton, Connie Fortune and John G. Parsons to grant, William F. McIntosh to grant by proxy, Charles R. Norris not voting not having heard the case).

BY ORDER OF THE DISTRICT OF COLUMBIA BOARD OF ZONING ADJUSTMENT

ATTESTED BY: Steven E. Sher
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 27 JUL 1981

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.