

Before the Board of Zoning Adjustment, D. C.

PUBLIC HEARING - July 19, 1972

Application No. 11088 Jesse Small, appellant.

THE ZONING ADMINISTRATOR OF THE DISTRICT OF COLUMBIA, appellee.

On motion duly made, seconded and unanimously carried, the following Order of the Board was entered at the meeting of July 25, 1972.

EFFECTIVE DATE OF ORDER - July 27, 1972

ORDERED:

That the application for variance from Section 3304 (rear yard) and Section 7502.2 (over 30% of rear yard occupied to permit a covered walkway between garage and dwelling at 2010 Upshur Street, NE., Lot 27, Square 4232., be GRANTED.

FINDINGS OF FACT:

1. The subject property is located in a R-1-B District.
2. The property is improved with a single family brick dwelling.
3. The appellant request variance from Section 3304 (rear yard) and Section 7502.2 (over 30% of rear yard occupied) to permit covered walkway between garage and dwelling.
4. Evidence was submitted showing appellant had requested a permit to build the requested variance to the Zoning Administrator. Subsequent to the issuance of the permit and after the job was completed, appellant was notified that the permit was issued in error by the Zoning License and Inspection Branch.
5. An Affidavit of posting was submitted by appellant showing that the property was properly posted in accordance with rule 3.33 of the Supplemental Rules of Practice and Procedures before the Board of Zoning Adjustment of the District of Columbia.
6. The file contains several letters in support of the granting of the requested variance.

7. At the public hearing there was opposition by Mr. M. Brent Oldham. Mr. Oldham's objections was "...it would be a blow to see this proposed intensed utilization of home lot space endanger the investments of the area."

OPINION:

The Board feels that the requested variance should be granted. Our action is, in part, based upon the appellant's action was permitted by the Department of License and Inspections Branch of the Department of Economic Development. The construction proceeded to completion without his knowledge that the permit was issued in error. It is, therefore, our opinion that the denial of this application should not be made for the appellant's hardship was not of his own making.

We are also of the opinion that appellant has proven a hardship within the meaning of the variance clause of the Zoning Regulations and that a denial of the requested relief will result in peculiar and exceptional practical difficulties and undue hardship upon the owner.

Further, we hold that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

BY ORDER OF THE D. C. BOARD OF ZONING ADJUSTMENT

ATTESTED:

By: _____

GEORGE A. GROGAN
Secretary of the Board

THAT THE ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS NOLY UNLESS APPLICATION FOR A BUILDING AND/OR OCCUPANCY PERMIT IS FILED WITH THE DEPARTMENT OF ECONOMIC DEVELOPMENT WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER.