

BEFORE THE BOARD OF ZONING ADJUSTMENT, D.C.

Appeal No. 12276 of Eva Robertson Hinton, pursuant to Section 8102 and 8206 of the Zoning Regulations, appealing the decision of the Zoning Administrator that the building in the rear of premises 1421 34th Street, N.W., Lot 804, Square 1245, constitutes an accessory building.

HEARING DATE: January 19, 1977

DECISION DATE: February 8, 1977

FINDINGS OF FACT:

1. Appellant appeals the decision of the Zoning Administrator to issue building permits Nos. B-239147 and B-239148 on January 29, 1976 permitting the expansion and remodeling of an existing accessory building located at the rear of 1421 34th Street, N.W. into a recreation room and studio.
2. Subsequent to the issuance of the permits, owner-applicant requested a review of the issuance of the permits. That review resulted in the suspension of the permits due to excessive lot occupancy for a semi-detached dwelling.
3. After denial of an area variance (Application No. 119888) owner-applicant, subsequent to the suspension of the building permits, constructed an addition to the principal building resulting in the conversion of the principal building from semi-detached to row dwelling.
4. The conversion resulted in permissible lot coverage by the proposed expansion and remodeling of the accessory building and the building permits were reissued.
5. Construction, pursuant to those permits, commenced on approximately June 30, 1976 and was completed on or about August 17, 1976.
6. The expanded and remodeled accessory building contains a toilet, sink and refrigerator.
7. The building is incidental and subordinate to, and

located in the rear of, 1421 34th Street, N.W.

8. The accessory building occupies approximately 23% of the rear yard and is located approximately 35 feet from the principal building, in excess of the 20 foot rear yard requirement in a R-3 district. At its highest point, the building is 10 feet 7 inches tall.

9. Evidence was presented by appellant that the accessory building was being utilized as sleeping quarters by owner-applicant's granddaughter.

10. At the time of owner-applicant's request for re-issuance of the building permits, owner-applicant submitted an affidavit indicating the intended use of the accessory building as recreational.

CONCLUSIONS OF LAW AND OPINION

The owner-applicant was entitled as a matter of right under Section 3103.52 to construct and maintain an accessory building for recreational purposes in the R-3 district. The accessory building so constructed conforms to the dimensional and locational requirements of Sections 7601 and 7601.3. While appellant adduced evidence tending to show that owner-applicant was utilizing the property for other than permitted purpose, no finding is made as that evidence, possibly relevant to Housing Code Violations, is not relevant to the issue of the issuance of the building permits. The granting of the building permits being in compliance with the Zoning Regulations, the decision of the Zoning Administrator is AFFIRMED.

VOTE: 3-1 (William F. McIntosh, Leonard L. McCants, Esq. and Richard Stanton.) (Lilla Burt Cummings, Esq. to REVERSE on the grounds that an accessory building, under the Regulations, other than a garage may not be used for human habitation; uncontradicted testimony at hearing establishes that this building is used for human habitation in violation of Zoning Regulations; the Zoning Administrator based his action unfortunately in an artfully drawn affidavit which did not include a statement by affiant, made under oath that the building would not be used for human habitation.)

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ATTESTED BY: 
ARTHUR B. HATTON
Secretary to the Board

FINAL DATE OF ORDER: 4-21-77