

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 12719, of Senator and Mrs. Charles Percy, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the open court requirements (Sub-section 3306.1) to permit an addition to the third floor of a single family row dwelling in the R-3 District at the premises 1691 - 34th Street, N.W. (Square 1295, Lot 273).

HEARING DATE: August 16, 1978
DECISION DATE: September 6, 1978

FINDINGS OF FACT:

1. The subject property is located at 1691 - 34th Street, N.W., between Reservoir Road and R Street, N.W., in the R-3 District.
2. The site is improved with a large three story row dwelling, a garage and swimming pool. The area of the lot is approximately 4,570 square feet.
3. To the south are single-family residences and a twenty foot public alley which provides access to the garage. To the rear of the property are the rear yards of properties that front on R Street. Adjacent to the north is a single family detached dwelling.
4. The applicants have constructed a third story addition to the dwelling on the lot. The addition was constructed pursuant to a valid building permit.
5. The construction of the addition is not completed, the applicant having ~~removed the~~ framing for a roof overhang which was approved to extend to the lot line.
6. Without the roof overhang, the addition technically creates a three foot wide open court, between the addition and the south side lot line, at the third floor level. The Zoning Regulations require that the width of an open court be a minimum of six feet, thus requiring a three foot variance.

7. The addition has not increased the lot occupancy of this property since it was constructed above an existing second story. The deletion of the overhang also does not effect lot occupancy.

8. The height of the roof of the addition is approximately the same as that of the existing third story roof line. The south and east walls of the sun room are setback approximately three feet from the exterior wall of the floors below in order to accommodate a small wooden deck on two sides of the addition.

9. The Municipal Planning Office, by report dated August 10, 1978, and by testimony at the hearing, recommended that the application be granted, noting that had this addition been so constructed that its exterior walls were in vertical alignment with the existing exterior walls of the floors below, no variance would be required. The variance is required because of the three foot deck on two sides of the addition. The Municipal Planning Office stated that the light, air and ventilation for this property and the adjoining property will not be adversely affected. The Board so finds.

10. The Citizen's Association of Georgetown was in opposition to the application on the grounds that the Association is against granting variances unless there is a real hardship and no damage to any of the neighbors. In addition, the Association felt that the granting of the variance would further infringe on the privacy of the next door neighbor.

11. The abutting property owner was against the application on the grounds that the applicant was invading upon her privacy, by the number of windows that had been built by the applicant facing her property.

12. As to the primary issues raised by the persons in opposition, the Board finds that the existing windows in the house which face the abutting property comply with all the requirements of the Zoning Regulations, and are not at issue in this case. The Board finds that the overhang which is at issue in this application would have no effect on the view of the abutting property from the subject property, since the abutting property is at a lower elevation than the subject property, and the overhang is above the level of all the windows of the subject house.

13. There was no report from Advisory Neighborhood Commission 3A.

14. The owners of two properties to the south of the subject site which front on Reservoir Road, and the rear of which face the subject site, supported the application.

CONCLUSIONS OF LAW AND OPINION:

The Board concludes that the removal of the overhang from the addition does not have any effect on the privacy of the abutting property owners and that approval of the application would not prevent use of the abutting property in a manner in accordance with the Zoning Regulations. In fact the overhang blocks only the view from the neighboring yard of the sky and removal of the overhang only opens up much more sky and does not impact upon one's view into the neighboring properties. The Board concludes that the requested variance is an area variance, the granting of which requires the showing of a practical difficulty. The Board concludes that the variance sought is minimal, that no adverse affects are created and that requiring compliance with the regulations would be unduely burdensome to the applicant.

The Board finds that based on the record, the proposed application will not increase the lot occupancy and had the rear addition been built along the same walls as the existing floors, no variance would be needed. The Board concludes that the above application 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. Accordingly, it is so ORDERED that the application is GRANTED.

VOTE: 3-2 (Chloethiel Woodard Smith, Leonard L. McCants to GRANT, John G. Parsons to GRANT by PROXY; William F. McIntosh and Charles R. Norris to DENY).

ATTESTED BY:



STEVEN E. SHER
Executive Director

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

FINAL DATE OF ORDER: _____

5 OCT 1978