

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 12836 of Nan T. McEvoy, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the open court requirements (Sub-section 3306.1 and Paragraph 7107.22) to permit an addition to a dwelling which is a non-conforming structure in an R-3 District at the premises 1408 - 35th Street, N.W., (Square 1247, Lot 123).

HEARING DATE: December 20, 1978
DECISION DATE: February 28, 1979

FINDINGS OF FACT:

1. The application was originally advertised as requiring a variance from the percentage of lot occupancy requirements. The building with its addition becomes a row dwelling, which is limited to a lot occupancy of sixty per cent. The building with the addition will have a lot occupancy of nine square feet less than sixty per cent. No variance is thus required from the lot occupancy limits.
2. The subject property is located on the west side of 35th Street, N.W., between O and P Streets. It is known as 1408 - 35th Street, N.W. and is in an R-3 District.
3. The subject lot is thirty feet in width and 120 feet in depth. It is improved with a semi-detached two and one half story single family house. The house is approximately twenty-six feet in width and fifty-seven feet in depth. The subject street consists of semi-detached houses and row houses.
4. The applicant proposes to construct a first floor side addition to the southside of the subject house to increase her existing dining room and kitchen areas. The subject property is attached to a dwelling to the north. On its southern boundary there is presently a two foot side yard.
5. The existing structure is non-conforming in that it exceeds slightly the permitted forty percent lot occupancy for a semi-detached dwelling in an R-3 zone and it does not meet the side yard requirements. The existing side yard varies from six feet to two feet where a minimum of eight feet is required.

6. Variances from the side yard and the lot occupancy were granted on January 16, 1975 by the Board under Order No. 11777 to permit an increase in the size of an enclosed porch and also to make an addition to the existing dining room.

7. The existing dining room is approximately twenty-six feet in length and thirteen feet in width. The existing kitchen is approximately eight feet in width and thirteen feet in length. The proposed addition will increase the existing dining and kitchen areas by an additional 674 square feet.

8. The addition, which extends to the property line, will change the existing semi-detached house to a row dwelling. The remaining portion of the side yard not covered by the dwelling will become a court as defined by the Zoning Regulations and will require a variance of four feet.

9. The building area, 2,152 square feet, including the new addition, will not exceed the sixty per cent lot occupancy as required for a row house. The structure presently complies with the permitted lot occupancy having been previously granted a variance by the Board.

10. The Municipal Planning Office by report dated December 18, 1978 recommended that the application be denied on the grounds that the extension of the existing improvements as proposed would adversely impact the light and air of adjacent properties, exceed the permitted lot occupancy, and change a non-conforming side yard into a non-conforming court. The cumulative affect of non-conformity would, if approved, in the opinion of the MPO, not be consistent with the intent and purpose of the Zoning Regulations. The Board does not concur. Only an open court variance is required. Such a variance has no cumulative affect of non-conformity. The light and air will not be substantially impaired. As to this, there will be little change from the existing non-conforming side yard.

11. Advisory Neighborhood Commission 3D made no recommendation on the application.

12. There was no opposition to the application.

CONCLUSION OF LAW:

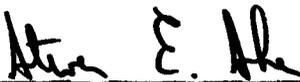
Based on the record the Board concludes that the applicant seeks an area variance the granting of which requires a showing of a practical difficulty stemming from the property itself. The applicant seeks only one variance, a variance from the open court requirements. No lot occupancy nor rear yard variances are sought.

If the variance is granted, the non-conforming side yard will become a non-conforming open court. There will be little change from what now exists as to light and air. The Board notes that there was no opposition to the application. The proposed variance is minimal. The applicant is limited to what she can build from the very nature of the existing structure. The Board further concludes that the application can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan. Accordingly, it is ORDERED that the application is GRANTED.

VOTE: 3-2 (William F. McIntosh, Chloethiel Woodard Smith, Charles R. Norris to grant, Leonard L. McCants to deny and Parsons to deny by proxy).

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

ATTESTED BY:



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 20 MAR 1979

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.