

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 12875, of Samuel Scrivener, III, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from Paragraph 7107.21 to allow an addition to a non-conforming structure which now exceeds the allowable percentage of lot occupancy in an R-1-B District at the premises 4500 Newark Street, N.W. (Square 1604, Lot 825).

HEARING DATE February 14, 1979

DECISION DATE: February 14, 1979 (Bench Decision)

FINDINGS OF FACT:

1. The subject property is located at the southwest corner of the intersection of 45th and Newark Streets, N.W. It is in an R-1-B District.
2. The subject property is improved with a single family detached dwelling.
3. The improvements occupy fifty-four per cent of the lot. Under the Zoning Regulations the permitted lot occupancy is forty per cent. The structure in this sense is non-conforming as to the current Zoning Regulations.
4. The applicant proposes to add one second floor room over the existing garage facing 45th Street. The addition will be a bedroom and will be used by the family, constituting four persons.
5. The proposed addition will be located entirely over existing structures and will not increase the lot occupancy.
6. Advisory Neighborhood Commission 3D filed no recommendation on the application.
7. There was no opposition to the application at the public hearing of February 14, 1979.

8. There was one letter on file in opposition to the application from an abutting property owner. The opposition was based on the fact that the proposed addition will have three windows. These, in addition to the seven already in existence, will permit ten windows facing opposition's bedrooms, dining room and living room. Opposition stated that this condition constituted an invasion of privacy. While the Board notes the opposition, the Board finds that there is an eight foot side yard on that side of the applicant's building. The Board further finds that there are no limitations in the Zoning Regulations concerning the number of windows which may be located in a building.

CONCLUSIONS 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 Board finds that since the lot is already over-occupied, the applicant cannot construct his addition by extending into his rear, front or side yards. The only way the applicant can accommodate his family's needs is to extend upward. Here the applicant plans to build above the existing garage. The Board thus concludes that the practical difficulty stems from the property itself. The Board is aware of the opposition to the applicant's proposal. The applicant does have an eight foot side yard as required by the Zoning Regulations which separates his property from his neighbor. There is no provision in the Zoning Regulations limiting the number of windows on the side of a detached dwelling.

The Board further concludes that the variance 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 ORDERED that the application is GRANTED.

VOTE: 5-0 (Charles R. Norris, William F. McIntosh, Chloethiel Woodard Smith, Ruby B. McZier and Leonard L. McCants to GRANT).

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

ATTESTED BY: 
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 2 MAR 1979

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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.