

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13021, of Mr. and Mrs. Bernard Foullon, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the prohibition against adding to a non-conforming structure which exceeds the allowable percentage of lot occupancy (Paragraph 7107.21) and the parking requirements (Sub-section 4405.1) to allow an addition to a non-conforming structure which will be used as a retail store and a flat in a W-1 District at the premises 3206 Grace Street, N.W. (Square 1188, Lot 809).

HEARING DATE: October 17, 1979
DECISION DATE: November 7, 1979

FINDINGS OF FACT:

1. The subject property is located on the south side of Grace Street immediately to the west of Wisconsin Avenue, N.W., in Georgetown, and is known as 3206 Grace Street, N.W. It is in a W-1 District.
2. The subject site is 2,193.25 square feet in area and is improved with a two-story structure which occupies most of the lot. The first floor is devoted to retail use by a market known as Hudson Brothers. The second floor is used for storage.
3. The applicant proposes to convert the second floor of the subject property to two dwelling units with a roof top addition for the main front unit to include an outdoor deck. The main unit will be occupied by the owners. The second unit, a small efficiency apartment will be rented. The market on the first floor would remain.
4. The subject structure is non-conforming in that it occupies more than eighty percent of the lot and has a 6.25 foot rear yard instead of the twelve feet required under the Zoning Regulations.
5. The subject W-1 District permits both residential and commercial uses as a matter-of-right.
6. The addition of a third story is within the forty foot height limitation of the W-1 District and within the allowable floor area ratio for both the commercial and the residential uses.
7. The addition will not increase the lot occupancy.

8. The Office of Planning and Development, by report dated August 9, 1979, recommended that the application be approved on the grounds that the proposed addition and alteration of the subject building will provide additional housing in the Georgetown area consistent with the purposes of the W-1 District. It also noted that the one parking space cannot be provided on the subject property due to the existing lot occupancy.

9. The Citizens Association of Georgetown conditionally opposed the application on the grounds that the lot was overcrowded. It recommended that only one residential unit be permitted. It noted by letter of October 13, 1979, that it was in favor of more residential living in the subject section of Georgetown.

10. The owners of the adjoining unimproved lot recommended that the application be denied. They alleged that the east wall of the applicant's structure encroaches 0.02 feet on their land. They stated that up to now they have tolerated the encroachment but fear that if the application is granted an air of legitimacy might be given to the trespass.

11. As to the issues raised by the persons in opposition, the Board finds that the proposed uses of the property are all permitted as a matter of right. The addition of two units will not increase the lot occupancy, nor will it cause the maximum floor area ratio to be exceeded. As to the encroachment onto the adjoining lot, the Board finds that that issue is not a zoning issue, but one to be resolved between the two property owners. The Board, by virtue of its action on the application, neither accepts nor condones nor in any way legitimizes the encroachment.

12. At the public hearing, the Board raised the issue as to whether any parking space was required since the proposed use was less intense than the previous use of the subject premises. It directed the staff to clarify the issue with the Zoning Administrator. By memorandum, dated October 24, 1979, the Zoning Administrator replied that he had reviewed the computations on the number of required parking spaces and found the Zoning Administrator memo of April 26, 1979 in error. The Zoning Administrator further stated that given the nature of the proposed use and the credit for the previous uses, no parking space was required on the subject application. The Board so finds.

13. Advisory Neighborhood Commission - 3A made no recommendation on the application.

CONCLUSIONS OF LAW:

Based on the record, the Board concludes that the requested variance is an area variance, the granting of which requires the showing of a practical difficulty arising out of the property upon the owner. The proposed addition conforms with the height of building and floor area ratio of the Zoning Regulations. The Board notes that since the proposed addition is going up, it will not increase the percentage of lot occupancy. The Board notes that the proposed addition, as stated by the OPD, will increase residential living in a section of Georgetown consistent with the intent of the W-1 District. As stated in finding No. 12, there is no need for a variance from the parking requirements.

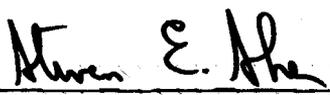
The Board concludes that the application can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zoning plan.

Accordingly, it is ORDERED that the variance from the prohibition against adding to a non-conforming structure which exceeds the allowable percentage of lot occupancy is GRANTED. A variance from the parking requirements is not required.

VOTE: 3-0 (Walter B. Lewis, Charles R. Norris and William F. McIntosh to GRANT and DISMISS the parking requirement, Chloethiel Woodard Smith and Leonard L. McCants not voting, not having heard the case).

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

ATTESTED BY:



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER:

4 JAN 1980

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.