

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13092, of Ronald D. Morgan, et al, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the lot occupancy requirements (Sub-section 3303.1) for a proposed addition to an apartment house in an R-5-C District at the premises 1311 and 1313 Rhode Island Avenue, N.W., (Square N-242, Lots 4 and 14).

HEARING DATE: November 14, 1979
DECISION DATE: December 5, 1979

FINDINGS OF FACT:

1. The subject properties are located in an R-5-C District on the north side of Rhode Island Avenue between Logan Circle and 14th Street, N.W. The subject lots are through lots, also having frontage on P Street, N.W.
2. The subject property consists of two lots which are proposed to be subdivided into one lot. The total area of the two lots is 2,807.06 square feet.
3. Lot 4 at 1311 Rhode Island Avenue is improved with a three story plus basement brick structure. The building is currently vacant. The last authorized use of the building was as an apartment house containing five units, as evidenced by Certificate of Occupancy No. B-91705, dated April 18, 1975.
4. Lot 14 at 1313 Rhode Island Avenue is also improved with a three story plus basement brick structure, and is also currently vacant. The last authorized use of the building was as an apartment house, as evidenced by Certificate of Occupancy No. B-34298, dated March 16, 1962. The Certificate of Occupancy does not indicate the number of units in the building. The applicant's statement, marked as Exhibit No. 5 of the record, and the testimony of the applicant at the hearing indicate that the building had seven units.
5. The applicant proposes to construct an addition in an existing court between the two buildings. That addition would effectively connect the two buildings into one building. The addition would provide service functions for both existing buildings, including kitchens, bathrooms and utility rooms.

6. The statement furnished by the applicant, marked as Exhibit No. 5 of the record, indicates that 1311 would contain five apartment units and that 1313 would contain one unit with the possibility of two additional units in the basement. At the hearing, the applicant testified that the first floor of 1311 might be used as an art gallery.

7. The plans submitted with the application, marked as Exhibit No. 8 of the record, indicate that the portion of the building at 1311 Rhode Island Avenue would contain one apartment on the first floor, two apartments on the second floor, and two apartments on the third floor. The basement would be used for a shop and storage, and would contain a bathroom.

8. The plans indicate that the portion of the building at 1313 Rhode Island Avenue would contain one single family unit, with two bedrooms and a bath in the basement, living room, family room, kitchen and bath on the first floor, and two bedrooms and a bath each on the second and third floors.

9. The basement of the addition would contain a bathroom and utility room for 1313 and a bathroom for 1311. The first floor of the addition would contain a kitchen and a bathroom for 1313 and a bathroom for 1311. The second and third floors of the addition each would contain two utility rooms, a kitchen and a bathroom for 1311.

10. As far as the requested variance is concerned, the ultimate use of the premises is immaterial. All of the potential uses of the property indicated in testimony or evidence are permitted as a matter-of-right.

11. In an R-5-C District, the maximum permitted lot occupancy is seventy-five per cent. For the subject property, the permitted building area is thus 2105.30 square feet. The existing building occupies 2264.06 square feet, or 158.76 over the permitted lot occupancy. The addition would occupy 195 square feet, to bring the total occupancy to 2459.06 square feet. A variance of 353.76 square feet is thus required.

12. The applicant also proposes to add an addition to the third floor of 1311, which does not now extend for the full depth of the house. The third floor addition will not increase the lot occupancy of the building, and does not require a variance.

13. The construction will not be visible from the front of the building on Rhode Island Avenue. It will be visible from P Street at the rear because the lot is a through lot.

14. The rear wall of the addition will be flush with the main rear wall of 1313. The rear wall of 1311 extends thirteen feet further to the rear.

15. The applicant testified that the subject property is unique in that it is the only property in the block that has an areaway or court between buildings. The house at 1311 is also the only house in the block that is only two stories in the rear. The Board so finds.

16. The applicant testified that he desired to enclose the existing court to solve existing security problems which resulted from the direct access from the street to the court. He further testified that the addition would allow for more practical utilization of the existing building, and that the design of the addition conforms to the rest of the structures in the block.

17. The Office of Planning and Development, by memorandum dated November 5, 1979 and by testimony at the hearing, recommended that the application be approved. The OPD concurred with the applicant's assessment that the enclosing of the subject areaway will improve the aesthetic appearance of the P Street frontage at this location by bringing it more into conformity with the general character of this block's P Street frontage. The enclosure will also improve the view from the residentially occupied row dwellings opposite the site on the north side of P Street. The areaway as it exists today provides minimal light and air to the subject buildings' due to its narrowness and northward orientation. The enclosing of the areaway will not jeopardize the light and air of the dwellings habitable space as the newly created interior space will be used for utility rooms, baths and kitchens. The redesign of the buildings will allow for adequate light and air as required by the building code. The OPD reported that approval of this application will not cause any detriment to the public good, nor impair the intent, purpose and integrity of the Zoning Regulations and Map and that the design of the proposed addition should be compatible with the architecture of the surrounding properties.

18. There was no written report from Advisory Neighborhood Commission - 2C.

19. The Logan Circle Community Association and one other area resident appeared at the hearing and opposed the application. The opposition stated that the plans for the addition were vague, as was the treatment of the facade. The opposition was critical of the applicant's restoration of an adjacent building. The opposition argued that the addition was not in conformance with the character of the Historic District within which the property is located. The opposition further argued that the security and litter problems cited by the applicant were not the basis for a variance. In addition, the written submission of the Association identified the following arguments:

- a. The property does not meet the test for a variance of being affected by an exceptional condition.
- b. Section 3.1(b) of the Zoning Commission Regulations adopted October 26, 1979 requires a report from the Historic Preservation Office.

20. As to the issues raised by the parties in opposition, the Board finds that the plans for the addition proposed, marked as Exhibit No. 8 of the record and discussed in Findings of Fact Nos. 5, 9 and 14, are specific as to the nature of the addition. The Board has previously found that the use of the premises as described is immaterial to the outcome of the variance case. The Board finds that what is at issue is whether a variance should be granted for this property, and the applicant's restoration of some other building is not relevant to this case. The Board accepts the findings of the Office of Planning and Development that the addition is in conformity with the predominant character of P Street. The Board notes that the proposed addition must also be reviewed under the process established by the Historic Landmark and Historic District Protection Act of 1978. The Board concurs with the opposition that security and litter are not the proper basis for a granting of a variance, and the Board does not rely on those arguments. The Board as stated in Finding of Fact No. 15, has already found that the site is unique in this block, and is thus affected by a condition to qualify it for a variance. The Board finds that the Section 3.1(b) cited by the opposition is part of the Rules of Practice and Procedures before the Zoning Commission and is not applicable to proceedings before the Board.

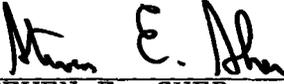
CONCLUSIONS OF LAW AND OPINION:

The Board concludes that the requested variance is an area variance, the granting of which requires the showing of some exceptional condition in the property which creates a practical difficulty for the owner. The Board concludes that the findings of fact demonstrates that the property is affected by such a condition. The Board further concludes that the practical utilization of the building is enhanced by the addition. The Board further concludes that the design of the addition is compatible with the block, and further notes that the design will be further reviewed through the historic preservation process. 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 zone plan as embodied in the Zoning Regulations and Maps. It is therefore ORDERED that the Application is GRANTED.

VOTE: 5-0 (John G. Parsons, Charles R. Norris, Connie Fortune, Leonard L. McCants and William F. McIntosh to GRANT).

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

ATTESTED BY: _____


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: _____

6 MAR 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 IN INSPECTIONS.