

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13141 of Grace Howar Spring, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the side yard requirements (Sub-section 3305.1) and Paragraph 7107.22) to construct an addition to a dwelling which is a non-conforming structure at the premises 3454 Macomb Street, N.W., (Square 2089, Lot 809).

HEARING DATE: January 16, 1980

DECISION DATE: January 16, 1980 (Bench Decision)

FINDINGS OF FACT:

1. The subject property is located in an R-1-B District on the south side of Macomb Street between 34th and 35th Streets, N. W.
2. The subject property is improved with a detached single family dwelling constructed in 1914.
3. The applicant proposes to erect a rear addition to the dwelling consisting of a bedroom and a greenhouse.
4. The applicant applied for building permits to construct the proposed rear addition. The plat filed with the plans, marked as Exhibit 19A of the record indicated that the lot was rectangular in shape, with a width of 46.87 feet and a depth of 135 feet. That plat further indicated the existing dwelling to be twenty-five feet wide, with an existing eight foot side yard on the east and an existing 13.87 foot side yard on the west. The proposed addition continued the eight foot side yard on the east. The east side yard was measured from an existing retaining wall which the applicant had assumed to be the property line. Based on the submitted plans and plat, the Zoning Regulations Division approved the application for zoning and building permits were issued on September 12, 1979.
5. After construction commenced, a second plat of the property was prepared. That plat, marked as Exhibit 19B of the record, showed the existing house to be 28.58 feet wide, the existing west side yard to be 13.98 feet wide and the existing east side yard to be 4.47 feet wide. This plat was disapproved by the Zoning Regulation Division because it did not comply with the five foot side yard requirement for a dwelling existing prior to May 12, 1958. A stop work order was issued on September 24, 1979.

6. Following the stop work order, the applicant ordered a private surveyor to prepare a third plat of the property. That plat, marked as Exhibit 19C of the record, showed that the lot was not rectangular in shape, but was 46.87 feet wide at the front and 48.13 feet wide at the rear. The house thus is located at a slight angle to the side lot lines. The side yard at the rear of the addition would be 5.45 feet wide, but the existing side yard at the front of the existing house is less than five feet wide.

7. The plat submitted with the application before the Board, marked as Exhibit No. 2 of the record, shows the existing side yard at the front of the house to be 4.67 feet wide. The memorandum submitted by the Zoning Regulations Division, marked as Exhibit No. 8 of the record, states that the existing side yard is 4.31 feet wide. The Board is unable to determine which of the two figures is correct. The Board notes that the difference is only 0.36 feet, or slightly more than four inches. The Board finds that the variance required would be either 3.69 feet or 3.33 feet, and that the difference is not material to the outcome of the case.

8. Sub-section 3305.9 of the Regulations provides that an addition may be made to a building which existed on May 12, 1958 if the width of the existing side yard is at least five feet. The width of the existing side yard in this application is less than five feet, and the sub-section is thus not applicable.

9. The existing dwelling is non-conforming as to the side yard requirements. The proposed addition does not decrease the width of the existing side yard, and thus does not increase the degree of non-conformity. The average width of the side yard is more than five feet.

10. The existing non-conformity is caused by the irregular shape of the lot. Because the lot is wider at the back than at the front, the house is sited at an angle to the side lot lines.

11. The owner of the adjoining property to the east appeared at the hearing and testified that he was in favor of the application.

12. There was no opposition to the application.

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

CONCLUSIONS OF LAW AND OPINION:

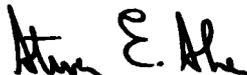
The Board concludes that the requested variance is an area variance, the granting of which requires the showing of a practical difficulty arising out of the property upon the owner of the property. The Board concludes that the irregular shape of the lot and the location of the existing dwelling on that lot combine to create such a practical difficulty for the applicant. The Board concludes that the addition proposed would be in harmony with the construction and use of adjoining properties, and that the building would be essentially similar to existing dwellings in the area.

The Board concludes that the proposed addition will not cause any adverse affects to nearby and adjoining properties and that the area variance requested in this case is slight and can be granted without impairing the intent, purpose, and integrity of the Zoning Regulations. Accordingly, it is ORDERED that the application is GRANTED.

VOTE: 4-0 (John G. Parsons, William F. McIntosh, Connie Fortune and Leonard L. McCants to grant, Charles R. Norris not present, not voting).

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

ATTESTED BY: \



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 27 FEB 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.