

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13175 of Joseph Hill, 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 a two-story rear addition to a single family dwelling which is a non-conforming structure in an R-2 District at the premises 5523 Jay Street, N. E., (Square E-5213, Lot 32).

HEARING DATE: February 20, 1980

DECISION DATE: February 20, 1980 (Bench Decision)

FINDINGS OF FACT:

1. The subject property is located on the south side of Jay Street between St. Catherine Street to the west and Nannie Helen Burroughs Avenue to the east. It is located in an R-2 Zone District at premises known as 5523 Jay Street, N. E.

2. The site is developed with a single family two story detached dwelling of brick and aluminum siding finish. The structure is unoccupied and boarded up.

3. The subject lot is approximately 4,596 square feet in area and is forty feet wide by 114.86 feet deep. It is rectangular in shape and generally level in topography.

4. The site is surrounded to the north by Jay Street which is a sixty foot right-of-way, fronted on by two story brick detached and semi-detached dwellings. One block north-east of the site is Eastern Avenue, which is the District of Columbia boundary line. To the east are nine lots, with each averaging approximately 4600 square foot of land area. These lots are developed with one story single family detached dwellings of brick or frame construction built in the 1920's. To the south of the site is the intersection of Hayes and 56th Streets, followed by a two story detached dwelling. To the west are single family detached dwellings. The property is surrounded by the R-2 Zone District.

5. The subject property complies with the R-2 requirements of the Zoning Regulations with respect to lot area, lot width, lot occupancy and rear yard.

6. The lot was improved with a structure in the 1920's that provided for an eight foot side yard on the eastern side of the structure and a 3.64 foot side yard on the western portion of the site. Upon the adoption of the 1958 Zoning Regulations, which requires a minimum width of eight feet for each side yard, the house became a non-conforming structure.

7. The applicant proposes to construct a rear addition of a kitchen, dining and living room and a utility area. This addition is virtually complete, as the applicant started construction believing no variances were needed for the addition. The applicant in fact decreased the degree of the original non-conformity by providing a five-foot side yard on the western side of the site.

8. The applicant is therefore seeking a variance of three feet or thirty -seven percent.

9. The Burville Civic Association by letter dated February 19, 1980, and testimony at the time of public hearing, supported the application on the grounds that all of the houses adjoining the subject side provide only four foot side yards, and that the addition to the structure has no negative impact on adjacent properties. The Board so finds.

10. Advisory Neighborhood Association 7C by letter dated February 12, 1980, offered no objections to the granting of the application.

11. The Office of Planning and Development by report dated February 12, 1980, and testimony at the time of public hearing, recommended approval of the application on the grounds that the existing side yard, at the time of the Zoning Regulations, created a practical difficulty upon the owner. The OPD believed that the proposed addition would not adversely effect the use of neighboring property. The Board so finds.

12. There are letters of support in the record and personal appearances in support from surrounding residents at the public hearing.

13. There was no opposition to the granting of this application.

CONCLUSIONS OF LAW AND OPINION:

Based on the above Findings of Fact and the evidence of record, the Board concludes that the requested variance is

an area variance, the granting of which requires the showing of some exceptional situation or difficulty relating to the property that prohibits strict compliance with the Zoning Regulations in developing such property. The Board is of the opinion that the physical layout of the structure at the time of adoption of the Zoning Regulations creates such a difficulty. The proposed addition decreases rather than increases the degree of non-conformity. The Board further concludes that the requested variance will not cause substantial detriment to the public good, not impair the intent, purpose and integrity of the Zoning Regulations and Map. Accordingly, it is ORDERED that this application is hereby GRANTED.

VOTE: 4-0 (Charles R. Norris, Connie Fortune, Walter B. Lewis and William F. McIntosh to grant; Leonard L. McCants not present, not voting).

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

ATTESTED BY: Steven E. Sher
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 5 MAY 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.